

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Donalds offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 517.34, Florida Statutes, is created to
 8 read:

9 517.34 Protection of specified adults.-

10 (1) As used in this section, the term:

11 (a) "Exploitation" has the same meaning as provided in s.
 12 415.102.

13 (b) "Law enforcement agency" means an agency of this state
 14 or a political subdivision of this state or of the United States
 15 whose primary responsibility is the prevention and detection of
 16 crime or the enforcement of the penal laws of this state or the

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17 United States, and whose agents and officers are empowered by
18 law to conduct criminal investigations or to make arrests.

19 (c) "Records" has the same meaning as provided in s.
20 415.102.

21 (d) "Specified adult" means a natural person who is 65
22 years of age or older or a vulnerable adult as defined in s.
23 415.102.

24 (e) "Trusted contact" means a natural person 18 years of
25 age or older whom the account owner has expressly identified in
26 writing as a person who may be contacted about the account.

27 (2) A dealer, an investment adviser, or an associated
28 person may delay a transaction on, or a disbursement of funds or
29 securities from, the account of a specified adult or an account
30 for which a specified adult is a beneficiary or beneficial owner
31 if the dealer, investment adviser, or associated person believes
32 in good faith that financial exploitation of the specified adult
33 has occurred, is occurring, has been attempted, or will be
34 attempted in connection with the transaction or disbursement, as
35 follows:

36 (a) The dealer's, investment adviser's, or associated
37 person's good faith belief may be based on the facts and
38 circumstances observed in such dealer's, investment adviser's,
39 or associated person's business relationship with the suspected
40 specified adult.

41 (b) If the specified adult meets the definition of a

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42 vulnerable adult under chapter 415, then in conformity with that
43 chapter, the dealer, investment adviser, or associated person
44 must immediately notify the Department of Children and Families,
45 via its central abuse hotline, of the suspected exploitation.

46 (c)1. Within 3 business days after the date that the delay
47 was first placed, the dealer, investment adviser, or associated
48 person must notify in writing, which may be electronic, all
49 parties authorized to transact business on the account and any
50 trusted contact on the account, using the contact information
51 provided for the account, unless the dealer, investment adviser,
52 or associated person believes in good faith that any such party
53 engaged or is engaging in the suspected exploitation of the
54 specified adult.

55 2. The notice provided pursuant to this paragraph must
56 include at a minimum a description of the transaction or
57 disbursement, a statement that a delay was placed on such
58 transaction or disbursement pursuant to this section, the basis
59 for the good faith belief regarding financial exploitation of
60 the specified adult, and an explanation of the delay process.

61 (3) A delay on a transaction or disbursement under
62 subsection (2) expires 15 business days after the date that the
63 delay was first placed. However, the dealer, investment adviser,
64 or associated person may extend the delay for up to 10
65 additional business days if its review of the available facts
66 and circumstances continues to support its good faith belief

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67 that exploitation of the specified adult has occurred, is
68 occurring, has been attempted, or will be attempted. The length
69 of the delay may be shortened or extended at any time by an
70 agency of competent jurisdiction or a court of competent
71 jurisdiction.

72 (4) A dealer, an investment adviser, or an associated
73 person may provide access to or copies of any records that are
74 relevant to the suspected exploitation of a specified adult to
75 the Department of Children and Families or a law enforcement
76 agency at their request. These records may include records of
77 prior transactions in addition to the transactions comprising
78 the suspected exploitation. A dealer, investment adviser, or
79 associated person subject to the jurisdiction of the office must
80 make available to the office, upon request, all records relating
81 to a delay or report made by the dealer, investment adviser, or
82 associated person pursuant to this section.

83 (5) Notwithstanding any law to the contrary, the
84 Department of Children and Families may inform the reporting
85 party on the status of an investigation initiated under this
86 section and any final disposition.

87 (6) Any dealer, investment adviser, or associated person
88 who delays a transaction or disbursement pursuant to this
89 section, who provides records to an agency of competent
90 jurisdiction pursuant to this section, or who participates in a
91 judicial or arbitration proceeding resulting therefrom is

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92 presumed to be acting in good faith and, unless lack of good
93 faith is shown by clear and convincing evidence, is immune from
94 any civil or administrative liability that otherwise might be
95 incurred or imposed. Nothing in this subsection supersedes or
96 diminishes any immunity provided in chapter 415.

97 (7) Any dealer, investment adviser, or associated person
98 relying on this section must develop and comply with training
99 policies or programs reasonably designed to educate employees on
100 issues pertaining to financial exploitation of specified adults.
101 Before placing a delay on a transaction or disbursement pursuant
102 to this section, the dealer, investment adviser, or associated
103 person must receive a minimum of 1 hour of such training. The
104 training policies and programs developed pursuant to this
105 subsection must provide for the dealer, investment adviser, or
106 associated person to receive a minimum of 1 hour of such
107 training every 3 calendar years after the year in which the
108 initial training requirement is met. The dealer, investment
109 adviser, or associated person must maintain a written record of
110 compliance with this subsection.

111 (8) This section may not be construed to create new rights
112 or obligations of a dealer, an investment adviser, or an
113 associated person under other applicable laws or rules. In
114 addition, this section does not limit the right of a dealer, an
115 investment adviser, or an associated person to otherwise refuse

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116 | or place a delay on a transaction under other applicable laws or
117 | rules or under an applicable customer agreement.

118 | Section 2. This act shall take effect July 1, 2018.

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121 | **T I T L E A M E N D M E N T**

122 | Remove everything before the enacting clause and insert:
123 | An act relating to protection for vulnerable investors; creating
124 | s. 517.34, F.S.; defining terms; authorizing securities dealers,
125 | investment advisers, and associated persons to delay a
126 | transaction on, or a disbursement of funds or securities from,
127 | certain accounts if the dealer, investment adviser, or
128 | associated person believes in good faith that financial
129 | exploitation of a specified adult has occurred, is occurring,
130 | has been attempted, or will be attempted in connection with the
131 | transaction or disbursement and if the dealer, investment
132 | adviser, or associated person complies with specified
133 | requirements; providing that such delay expires after a
134 | specified timeframe; authorizing dealers, investment advisers,
135 | and associated persons to extend the delay under certain
136 | circumstances for up to a specified timeframe; providing that
137 | the length of the hold may be shortened or extended by an agency
138 | or court of competent jurisdiction; authorizing dealers,
139 | investment advisers, and associated persons to provide certain
140 | records to the Department of Children and Families or law

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141 enforcement agencies upon request; providing a requirement that
142 certain dealers, investment advisers, and associated persons
143 make available to the office certain records upon request;
144 authorizing the department to inform reporting parties of
145 certain information; providing that dealers, investment
146 advisers, and associated persons are presumed to be acting in
147 good faith and are immune from civil or administrative liability
148 for certain actions; specifying minimum training requirements
149 for dealers, investment advisers, and associated persons;
150 providing for maintenance of a written record of compliance with
151 training requirements; providing construction; providing an
152 effective date.