WEST VIRGINIA CODE CHAPTER 32 ARTICLE 6

WV Legislature

§32-6-601. Short title.

This article may be cited as “The Protection of Eligible Adults from Financial Exploitation Act.

WV Legislature

§32-6-602. Definitions.

In this article, unless the context otherwise requires:

(1) “Agencies” means adult protective services and the Securities Commission, a Division of the State Auditor’s office.

(2) “Eligible adult” means a person 65 years of age or older or a person subject to §9-6-1 *et seq.* of this code.

(3) “Financial exploitation” means:

(A) The wrongful or unauthorized taking, withholding, appropriation, or use of securities, money, assets, or property of an eligible adult; or

(B) Any act or omission taken by a person, including using a power of attorney, guardianship, or conservatorship of an eligible adult to:

(i) Obtain control, through deception, intimidation, or undue influence over the eligible adult’s money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property; or

(ii) Convert money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

WV Legislature

§32-6-603. Governmental Disclosures.

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser shall promptly notify the agencies.

WV Legislature

§32-6-604. Immunity for Governmental Disclosures.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 603 of this article is immune from administrative or civil liability that might otherwise arise from the disclosure or for any failure to notify the customer of the disclosure.

WV Legislature

§32-6-605. Third-Party Disclosures.

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser may notify any reasonably associated individuals. Disclosure may not be made to any third party that is suspected of financial exploitation or other abuse of the eligible adult.

WV Legislature

§32-6-606. Immunity for Third-Party Disclosures.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-605 of this code is immune from any administrative or civil liability that might arise from the disclosure.

WV Legislature

§32-6-607. Delaying Transactions or Disbursements.

(a) A broker-dealer or investment adviser may delay a transaction or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) The broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may result in financial exploitation of an eligible adult; and

(2) The broker-dealer or investment adviser:

(i) Immediately, but in no event more than two business days after the broker-dealer or investment adviser first delayed the transaction or disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) Immediately, but in no event more than two business days after the date on which the transaction or disbursement was first delayed, notifies the agencies; and

(iii) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult as necessary and reports the investigation's results to the agencies on a reasonable and periodic basis, up to and including the resolution of the investigation.

(b) Any delay of a transaction or disbursement as authorized by this section expires upon the sooner of:

(1) A determination by the broker-dealer or investment adviser that the disbursement will not result in financial exploitation of the eligible adult; or

(2) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds, unless either of the agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay expires when requested by an order of a court of competent jurisdiction.

WV Legislature

§32-6-608. Immunity for Delaying Transactions or Disbursements.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-607 of this code is immune from any administrative or civil liability that might otherwise arise from the delay in a transaction or disbursement.

WV Legislature

§32-6-609. Records.

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to agencies charged with administering state adult protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult. All records made available to agencies under this section shall not be considered a public record as defined in §29B-1-1 *et seq.* of this code. Nothing in this provision may limit or otherwise impede the authority of the Securities Commission to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

WV Legislature

§32-6-610. Immunity for Complying with Records Requests.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-609 of this code is immune from any administrative or civil liability that might otherwise arise from such disclosure.

WV Legislature