Sixty-fifth Legislative Assembly of North Dakota

## **SENATE BILL NO. 2322**

Introduced by

Senators J. Lee, O. Larsen, Heckaman

Representatives Keiser, K. Koppelman, Delmore

- 1 A BILL for an Act to create and enact a new section to chapter 10-04 of the North Dakota
- 2 Century Code, relating to the financial exploitation of vulnerable adults.

## 3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 **SECTION 1.** A new section to chapter 10-04 of the North Dakota Century Code is created

5 and enacted as follows:

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## 6 Financial exploitation - Vulnerable adult.

- 7 <u>1.</u> <u>As used in this section:</u>
- 8 a. "Eligible adult" means an adult who is at least sixty-five years old or a vulnerable
  9 adult as defined in section 50-25.2-01.
- 10 <u>b.</u> <u>"Financial exploitation" means:</u>
  - (1) The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult; or
    - (2) Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:
- 15(a)Obtain control, through deception, intimidation, or undue influence,16over the eligible adult's money, assets, or property, to deprive the17eligible adult of the ownership, use, benefit, or possession of the18eligible adult's money, assets, or property; or
  - (b) <u>Convert money, assets, or property of the eligible adult to deprive the</u> <u>eligible adult of the ownership, use, benefit, or possession of the</u> <u>eligible adult's money, assets, or property.</u>
- c. "Qualified individual" means any agent, investment adviser representative, or
   person who serves in a supervisory, compliance, or legal capacity for a broker dealer or investment adviser.

Sixty-fifth Legislative Assembly

<u>2.</u>	<u>lf a</u>	quali	fied in	dividual reasonably believes financial exploitation of an eligible adult				
	ma	y hav	e occi	<u>irred, may have been attempted, or is being attempted, the qualified</u>				
	ind	ividua	l shall	notify the department of human services and the commissioner.				
<u>3.</u>	<u>lf a</u>	If a qualified individual reasonably believes financial exploitation of an eligible adult						
	ma	<u>y hav</u>	<u>e occi</u>	irred, may have been attempted, or is being attempted, a qualified				
	ind	ividua	l may	notify a third party reasonably associated with the eligible adult or any				
	<u>oth</u>	other person permitted under state or federal law or rule, rules of a self-regulating						
	org	organization, or customer agreement. Disclosure may not be made to a designated						
	<u>thir</u>	third party who is suspected of financial exploitation or other abuse of the eligible						
	<u>adı</u>	<u>ult.</u>						
<u>4.</u>	<u>A q</u>	ualifie	ed indi	vidual who in good faith and exercising reasonable care discloses				
	info	ormati	on un	der this section is immune from administrative or civil liability that might				
	<u>oth</u>	erwise	<u>e resu</u>	It from disclosure or for any failure to notify the customer of the				
	<u>dis</u>	closur	<u>e.</u>					
<u>5.</u>	<u>a.</u>	<u>A br</u>	oker-o	dealer or investment adviser may delay a disbursement of funds or				
		<u>sec</u>	<u>urities</u>	from an account of an eligible adult or an account on which an eligible				
		<u>adu</u>	<u>lt is a</u>	beneficiary if:				
		<u>(1)</u>	The	broker-dealer or investment adviser reasonably believes the requested				
			<u>disb</u>	ursement may result in financial exploitation of an eligible adult after				
			<u>initia</u>	ting an internal review of the requested disbursement and the				
			<u>susp</u>	pected financial exploitation; and				
		<u>(2)</u>	<u>The</u>	broker-dealer or investment adviser:				
			<u>(a)</u>	Provides written notification of the delay and the reason for the delay				
				to all parties authorized to transact business on the account, unless a				
				party is reasonably believed to have engaged in suspected or				
				attempted financial exploitation of the eligible adult, within two days				
				after the requested disbursement;				
			<u>(b)</u>	Notifies the department of human services and the commissioner				
				within two days after the requested disbursement; and				
			<u>(c)</u>	Continues its internal review of the suspected or attempted financial				
				exploitation of the eligible adult as necessary.				
	<u>3.</u>	ma indi 3. If a ma indi oth org thir adu 4. A q info oth dise	may have individua 3. If a qualit may have individua other per organiza third part adult. 4. A qualifie informati otherwise disclosur 5. a. A br sec adu (1)	may have occu individual shall 3. If a qualified in may have occu individual may other person p organization, o third party who adult. 4. A qualified indi information un otherwise resu disclosure. 5. a. A broker-o securities adult is a (1) The disb initia susp (2) The (a)				

<ul> <li>broker-dealer or investment adviser extend the delay, in which case the</li> <li>delay expires within twenty-five business days after the date the broker-</li> <li>dealer or investment adviser first delayed disbursement of the funds or.</li> <li>securities unless the delay is terminated by either of the agencies or an</li> <li>order of a court of competent jurisdiction.</li> <li>c. A court of competent jurisdiction may enter an order extending the delay of the.</li> <li>disbursement of funds or securities or may order other protective relief based on.</li> <li>the broker-dealer, investment adviser, or other interested party's petition that</li> <li>initiated the delay under this section.</li> <li>A broker-dealer or investment adviser who in good faith and exercising reasonable</li> <li>care complies with this section is immune from any administrative or civil liability that.</li> <li>may otherwise arise from a delay in disbursement in accordance with this section.</li> </ul>	1		<u>b.</u>	b. Any delay of a disbursement authorized by this section expires upon the earlier					
4       disbursement will not result in financial exploitation of the eligible adult; or         5       (2) Eifteen business days after the date on which the broker-dealer or.         6       investment adviser first delayed disbursement of the funds or securities,         7       unless the department of human services or the commissioner requests the.         8       broker-dealer or investment adviser extend the delay, in which case the.         9       delay expires within twenty-five business days after the date the broker-         10       dealer or investment adviser first delayed disbursement of the funds or.         11       securities unless the delay is terminated by either of the agencies or an.         12       order of a court of competent jurisdiction.         13       c. A court of competent jurisdiction may enter an order extending the delay of the.         14       disbursement of funds or securities or may order other protective relief based on.         15       the broker-dealer or investment adviser, or other interested party's petition that         16       initiated the delay under this section.         17       6. A broker-dealer or investment adviser shall provide access to or copies of records that         18       care complies with this section is immune from any administrative or civil liability that,         19       may otherwise arise from a delay in disbursement in accordance with this section.	2			<u>of:</u>					
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