

House File 258 - Introduced

HOUSE FILE 258
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 113)

A BILL FOR

1 An Act relating to the financial exploitation of designated
2 eligible adults, and making an appropriation.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 502.607, subsection 2, Code 2021, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *g.* A record obtained by the administrator or
4 by law enforcement under section 502.809.

5 Sec. 2. Section 502.607, subsection 3, Code 2021, is amended
6 to read as follows:

7 3. *Administrator discretion to disclose.* If disclosure
8 is for the purpose of a civil, administrative, or criminal
9 investigation, action, or proceeding or to a person specified
10 in [section 502.608, subsection 1](#), the administrator may
11 disclose a record obtained in connection with an audit or
12 inspection under [section 502.411, subsection 4](#), or a record
13 obtained in connection with an investigation under section
14 502.602 or section 502.809.

15 Sec. 3. NEW SECTION. **502.801 Definitions.**

16 For purposes of this article, unless the context otherwise
17 requires:

18 1. *"Eligible adult"* means any of the following:

19 *a.* A person sixty-five years of age or older.

20 *b.* A dependent adult as defined in section 235B.2.

21 2. *"Financial exploitation"* means any act or omission taken
22 by a person to wrongfully and knowingly deprive an eligible
23 adult of money, assets, or property, or to obtain control over
24 or otherwise use, convert, or divert the benefits, property,
25 resources, or assets of the eligible adult by intimidation,
26 deception, coercion, fraud, extortion, or undue influence.

27 3. *"Permissible third party"* means any of the following:

28 *a.* A person the eligible adult previously designated to
29 receive the notification described in section 502.804.

30 *b.* A person otherwise permitted to receive the notification
31 described in section 502.804 by any state or federal law or any
32 rule issued by the financial industry regulatory authority.

33 4. *"Qualified individual"* means any of the following:

34 *a.* An agent who has received training pursuant to section
35 502.808.

1 *b.* An investment adviser representative who has received
2 training pursuant to section 502.808.

3 *c.* A person who has received training pursuant to
4 section 502.808 and who serves in a supervisory, compliance,
5 senior investor protection, or legal capacity for any of the
6 following:

7 (1) A broker-dealer.

8 (2) An investment adviser.

9 Sec. 4. NEW SECTION. 502.802 Notification to administrator.

10 If a broker-dealer, investment adviser, or qualified
11 individual reasonably believes financial exploitation of
12 an eligible adult has occurred, has been attempted, or is
13 being attempted, the broker-dealer, investment adviser, or
14 qualified individual may promptly notify the administrator.
15 The administrator may adopt rules regarding the form and manner
16 of the notification under this section.

17 Sec. 5. NEW SECTION. 502.803 Notification to administrator
18 — immunity.

19 A broker-dealer, investment adviser, or qualified individual
20 who, acting reasonably and in good faith, makes a disclosure
21 of information to the administrator pursuant to this article
22 shall be immune from administrative or civil liability that
23 might otherwise arise from such disclosure or for any failure
24 to notify the eligible adult of the disclosure. Other than
25 matters related to the reporting of the financial exploitation
26 of an eligible adult pursuant to this section, this section
27 shall not abrogate or modify any existing statutory or common
28 law privileges or immunities.

29 Sec. 6. NEW SECTION. 502.804 Notification to permissible
30 third party.

31 1. If a broker-dealer, investment adviser, or qualified
32 individual reasonably believes financial exploitation of
33 an eligible adult has occurred, has been attempted, or is
34 being attempted, the broker-dealer, investment adviser, or
35 qualified individual may notify a permissible third party. The

1 administrator may adopt rules regarding the form and manner of
2 the notification under this section.

3 2. Broker-dealers, investment advisers, and qualified
4 individuals shall not notify a permissible third party the
5 broker-dealer, investment adviser, or qualified individual
6 reasonably suspects of financial exploitation or other abuse
7 of the eligible adult.

8 Sec. 7. NEW SECTION. 502.805 Notification to permissible
9 third party — immunity.

10 A broker-dealer, investment adviser, or qualified individual
11 who, acting reasonably and in good faith, complies with section
12 502.804 shall be immune from any administrative or civil
13 liability that might otherwise arise from such disclosure.

14 Sec. 8. NEW SECTION. 502.806 Disbursements or transactions
15 — delay.

16 1. If a broker-dealer, investment adviser, or qualified
17 individual reasonably believes a disbursement or transaction
18 will likely result in or contribute to the financial
19 exploitation of an eligible adult, the broker-dealer,
20 investment adviser, or qualified individual shall initiate an
21 internal review of the requested disbursement or transaction.

22 2. A broker-dealer or investment adviser may delay a
23 disbursement or transaction from an eligible adult's account or
24 an account on which an eligible adult is a beneficiary if all
25 of the following apply:

26 a. The broker-dealer, investment adviser, or qualified
27 individual reasonably believes, after initiating the internal
28 review referenced in subsection 1, that the requested
29 disbursement or transaction will likely result in or contribute
30 to the financial exploitation of an eligible adult.

31 b. Immediately, but in no event more than two business
32 days after the disbursement or transaction is delayed,
33 the broker-dealer or investment adviser provides written
34 notification of the delay and the reason for the delay to
35 all persons authorized to transact business on the account.

1 Broker-dealers, investment advisers, and qualified individuals
2 shall not notify a person authorized to transact business
3 on the account if the broker-dealer, investment adviser,
4 or qualified individual reasonably believes the person
5 has committed financial exploitation, attempted financial
6 exploitation, or other abuse of the eligible adult.

7 *c.* Immediately, but in no event more than two business
8 days after the disbursement or transaction is delayed, the
9 broker-dealer or investment adviser notifies the administrator
10 of the delay and provides to the administrator the reason
11 for the delay, including the results of the internal review
12 referenced in subsection 1.

13 *d.* The broker-dealer or investment adviser continues
14 the internal review of the suspected or attempted financial
15 exploitation of the eligible adult, as necessary, and provides
16 the administrator with updates upon request.

17 3. Any delay of a disbursement or transaction authorized by
18 this section will expire upon the first to occur of any of the
19 following:

20 *a.* A determination by the broker-dealer or investment
21 adviser that the disbursement or transaction will not result in
22 or contribute to financial exploitation of the eligible adult.

23 *b.* Fifteen business days after the date on which the
24 broker-dealer or investment adviser first delayed disbursement
25 of the funds or transaction, unless the administrator requests
26 the broker-dealer or investment adviser to extend the delay,
27 in which case the delay shall expire no more than twenty-five
28 business days after the date on which the broker-dealer or
29 investment adviser first delayed the disbursement of the funds
30 or the transaction.

31 4. Notwithstanding subsection 3, upon the petition of
32 the administrator, the broker-dealer or investment adviser
33 who initiated the delay pursuant to this section, or another
34 interested party, a court of competent jurisdiction may enter
35 an order terminating, extending, or modifying the delay of the

1 disbursement or transaction and may order other protective
2 relief.

3 5. The administrator may adopt rules regarding the form and
4 manner of the notifications under this section.

5 Sec. 9. NEW SECTION. 502.807 Disbursements of transactions
6 — delay — immunity.

7 A broker-dealer or investment adviser who, acting reasonably
8 and in good faith, complies with section 502.806 shall be
9 immune from any administrative or civil liability that
10 might otherwise arise from such delay in a disbursement or
11 transaction.

12 Sec. 10. NEW SECTION. 502.808 Training requirements.

13 1. A broker-dealer or investment adviser shall provide
14 to its qualified individuals training appropriate to the job
15 responsibilities of a qualified individual. The training shall
16 include all of the following:

17 a. Instruction on how to identify the suspected or attempted
18 exploitation of an eligible adult, including common signs
19 indicating the financial exploitation of an eligible adult,
20 and how to provide notification regarding the suspected or
21 attempted exploitation of an eligible adult.

22 b. Instruction regarding privacy and confidentiality
23 requirements.

24 2. A broker-dealer or investment adviser shall provide
25 the training required by this section as soon as reasonably
26 practicable, but at least within one year after the date
27 the qualified individual begins employment with or becomes
28 affiliated or associated with a broker-dealer or investment
29 adviser.

30 3. The administrator may adopt rules specifying the content
31 and method of the training required by this section.

32 Sec. 11. NEW SECTION. 502.809 Records.

33 A broker-dealer or investment adviser shall provide access
34 to or copies of records that are relevant to the suspected
35 or attempted financial exploitation of an eligible adult to

1 the administrator, either as part of a notification to the
2 administrator pursuant to section 502.802, or upon the request
3 of the administrator. The records may include historical
4 records as well as records relating to the most recent
5 transactions that may comprise financial exploitation of an
6 eligible adult. The administrator may share the records with
7 law enforcement if the administrator determines it is necessary
8 or appropriate in the public interest and for the protection
9 of the eligible adult. All records made available to the
10 administrator or law enforcement pursuant to this section
11 shall be considered confidential public records under chapter
12 22 and shall not be available for examination by the public
13 pursuant to section 22.2. Nothing in this section shall limit
14 or otherwise impede the authority of the administrator or law
15 enforcement to access or examine the books and records of
16 broker-dealers and investment advisers as otherwise provided
17 by law.

18 Sec. 12. NEW SECTION. 502.810 Financial exploitation —
19 appropriation.

20 1. For the fiscal year beginning July 1, 2021, and each
21 fiscal year thereafter, there is appropriated from the
22 department of commerce revolving fund created in section 546.12
23 to the insurance division seventy-five thousand dollars for
24 the sole and exclusive purpose of investigating complaints
25 and notifications related to financial exploitation of
26 eligible adults. The insurance division shall use the funds
27 appropriated under this subsection for one full-time equivalent
28 position.

29 2. Notwithstanding section 8.33, moneys appropriated in
30 this section that remain unencumbered or unobligated at the
31 close of the fiscal year shall not revert but shall remain
32 available for expenditure for the purposes designated until the
33 close of the succeeding fiscal year.

34 Sec. 13. NEW SECTION. 502.811 Financial exploitation —
35 reporting.

1 The bill prohibits broker-dealers, investment advisers,
2 and qualified individuals from notifying a permissible third
3 party if the broker-dealer, investment adviser, or qualified
4 individual reasonably suspects the permissible third party of
5 financial exploitation or other abuse of the eligible adult.

6 The bill requires a broker-dealer, investment adviser,
7 or qualified individual to initiate an internal review of a
8 requested disbursement or transaction if the broker-dealer,
9 investment adviser, or qualified individual reasonably believes
10 the disbursement or transaction will likely result in or
11 contribute to the financial exploitation of an eligible adult.

12 The bill allows a broker-dealer or investment adviser
13 to delay a disbursement or transaction from an eligible
14 adult's account or an account on which an eligible adult is
15 a beneficiary if certain enumerated steps are followed. The
16 bill also prohibits broker-dealers, investment advisers, and
17 qualified individuals from notifying a person authorized
18 to transact business on the eligible adult's account or an
19 account on which an eligible adult is a beneficiary if the
20 broker-dealer, investment adviser, or qualified individual
21 reasonably believes the person has committed financial
22 exploitation or other abuse of the eligible adult.

23 The bill establishes when and under what conditions the
24 delay of the disbursement or transaction is to end. The bill
25 provides immunity for broker-dealers and investment advisers
26 from administrative or civil liability incurred or imposed as
27 a result of the delay.

28 The bill requires broker-dealers or investment advisers
29 to provide to qualified individuals training related to
30 identifying financial exploitation of eligible adults and
31 privacy and confidentiality requirements.

32 The bill also requires broker-dealers and investment
33 advisers to provide the commissioner of insurance access to
34 and copies of records relevant to investigations of financial
35 exploitation of eligible adults in certain enumerated

1 circumstances. The bill authorizes the commissioner to
2 share the records with law enforcement when the administrator
3 determines it is necessary or appropriate in the public
4 interest and for the protection of the eligible adult. The
5 bill provides these records are considered confidential records
6 for purposes of Code chapter 22, and are not available for
7 examination under Code section 22.2.

8 The bill requires the insurance division of the department
9 of commerce to submit an annual report to the governor and the
10 general assembly that includes the number of notifications
11 the insurance division received related to the potential
12 financial exploitation of eligible adults, the amount of time
13 employees of the insurance division spent investigating the
14 notifications, and the number of incidents of founded financial
15 exploitation of eligible adults, during the preceding calendar
16 year.

17 The bill makes an appropriation from the commerce revolving
18 fund created in Code section 546.12 to the insurance division
19 of the department of commerce for the fiscal year beginning
20 July 1, 2021, and each year thereafter, for purposes of
21 investigating complaints and notifications related to financial
22 exploitation of eligible adults.