

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 617

By Senator Willis

[Reported January 30, 2026, from the Committee on
the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §31A-2C-1, §31A-2C-2, §31A-2C-3, §31A-2C-4, §31A-2C-5, §31A-2C-6, and
3 §31A-2C-7, relating to establishing the Banking and Financial Services Provider
4 Protections for Eligible Adults from Financial Exploitation article; providing findings,
5 purpose, and intent; defining terms; permitting disclosure of eligible persons financial
6 information to certain third parties; requiring disclosure to designated state agency;
7 authorizing depository institutions to delay, refuse, or prevent certain activities and
8 transactions to prevent financial exploitation of an eligible adult; providing exemption from
9 certain privacy laws; and providing for private cause of action where certain circumstances
10 are satisfied.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2C. BANKING AND FINANCIAL SERVICES PROVIDER PROTECTIONS
FOR ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION.

§31A-2C-1. Short title.

1 This article may be cited as "Banking and Financial Services Provider Protections for
2 Eligible Adults from Financial Exploitation".

§31A-2C-2. Legislative findings, purpose, and intent.

1 (a) The Legislature recognizes that depository institutions have duties imposed by law and
2 by contract to conduct customer-directed transactions in a timely manner, and in accordance with
3 their customers' instructions.

4 (b) The Legislature recognizes that customers are increasingly being induced to authorize
5 transactions that are not in their interest.

6 (c) It is the intent of the Legislature to:
7 (1) Ensure that eligible adults have ready access to their funds;
8 (2) Provide depository institutions with the tools and protections to intervene in customer-

9 directed transactions when, in their discretion, the transaction presents potential significant risk of
10 harm to the customer; and

11 (3) Provide designated state agencies with the tools and information to investigate
12 potential financial exploitation.

13 (d) The Legislature does not intend to create a duty for depository institutions to
14 contravene the valid instructions of their customers and nothing in this article creates such a duty.

§31A-2C-3.

Definitions.

1 The terms and phrases used in this article have the following meanings:

2 "Associated third-party" means an individual that:

3 (A) An eligible adult has previously designated as an emergency contact for the depository
4 institution to contact in writing or who is the parent, spouse, adult child, sibling, or other close
5 family member of the eligible adult;

6 (B) Is a co-owner, additional authorized signatory, or beneficiary on an eligible adult's
7 account or an agent under a power of attorney; or

8 (C) Is an attorney, trustee, conservator, guardian or other fiduciary whom a court or a
9 government agency selects to manage some or all of the financial affairs of the eligible adult.

10 "Account" means a contract deposit of funds between the depositor and a depository
11 institution that is one of the following:

12 (A) A consumer account owned by an eligible adult, whether individually or with one or
13 more other persons;

14 (B) A conservatorship or guardianship account of which the eligible adult is a beneficiary;
15 or

16 (C) A line of credit owned by an eligible adult, whether individually or with one or more
17 other persons.

18 "Depository institution" has the same meaning as defined in §31-17A-2 of this code.

"Designated state agency" means the entity responsible for receiving reports of alleged or suspected maltreatment or financial exploitation of an eligible adult, including the West Virginia Department of Human Services Bureau for Social Services and the West Virginia Attorney General.

"Eligible adult" means:

(A) A person 65 years of age or older or a person subject to §9-6-1 *et seq.* of this code; or

(B) A person 18 years or older who:

(i) Has a substantial mental or functional impairment that significantly interferes with his or her ability to make financial decisions or for whom a guardian has been appointed under state law;

(ii) The depository institution has actual knowledge that the person has a substantial or functional impairment or that a guardian has been appointed under state law.

"Financial exploitation" means:

(A) The wrongful or unauthorized taking, withholding, appropriation, expenditure, or use of assets, or property owned by an eligible adult; or

(B) An act or omission taken by a person, including through the use of a power of attorney, guardianship, trustee, 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 the eligible adult's money, assets, or property; or

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

§31A-2C-4.

Government

disclosures.

Any depository institution or its employees, or both, who believe that financial exploitation of a
eligible adult has occurred, may have been attempted, or is being attempted, shall promptly
a designated state agency.

§31A-2C-5. Authority to delay, refuse, or prevent certain activities.

1 (a) When, based on personal observation or information received from a governmental
2 agency or law-enforcement agency, a depository institution or its employees believe that financial
3 exploitation of an eligible adult may have occurred, has been attempted, is occurring, or is being
4 attempted, the depository institution or its employees may, but are not required to:

5 (1) Delay or refuse one or more transactions with or involving the eligible adult;
6 (2) Delay or refuse to permit the withdrawal or disbursement of funds contained in the
7 eligible adult's account;

8 (3) Prevent a change in ownership of the eligible adult's account;
9 (4) Prevent a transfer of funds from the eligible adult's account to an account owned wholly
10 or partially by another person;

11 (5) Refuse to comply with instructions given to the depository institution by an agent or a
12 person acting for or with an agent under a power of attorney signed or purported to have been
13 signed by the eligible adult; or

14 (6) Prevent the designation or change the designation of beneficiaries to receive any
15 property, benefit, or contract rights for an eligible adult at death.

16 (b) A depository institution or its employees are not required to act under subsection (a) of
17 this section when provided with information alleging that financial exploitation may have occurred,
18 may have been attempted, is occurring, or is being attempted, but may use their sole discretion to
19 determine whether or not to act under subsection (a) of this section based on the information
20 available to them at the time.

21 (c) The authority to delay a transaction set forth in subsection (a) of this section expires
22 upon the sooner of:

23 (1) Fifteen business days after the date on which the depository institution first acted under
24 subsection (a) of this section, unless the designated state agency is conducting an investigation
25 and requests an extension, in which case it may be extended for an additional 30 days;

(2) When the depository institution is satisfied in its sole discretion that the transaction or act will not likely result in financial exploitation of the eligible adult; or

(3) Upon an order of a court of competent jurisdiction directing the release of funds.

(d) Notwithstanding any other law to the contrary, the refusal to engage in a transaction as
described under subsection (a) of this section may not constitute the wrongful dishonor of an item
under §46-4-1 et seq. of this code.

(e) A reasonable belief that payment of a check will facilitate the financial exploitation of an adult constitutes reasonable grounds to doubt the collectability of the item for purposes of the Federal Check Clearing for the 21st Century Act, 12 U.S.C. § 5001 *et seq.*, the federal United Funds Availability Act, 12 U.S.C. § 4001 *et seq.*, and 12 C.F.R. part 229. Nothing herein, however, requires depository institutions or their employees to review the checks of eligible adults.

(f) A delay or refusal to complete a funds transfer request as authorized under subsection
this section does not violate §46-4A-101 et seq. of this code: *Provided*, That if a transaction
is delayed under subsection (a) of this section, the payment order is not considered as received
until the hold is removed and the depository institution submits the payment order for processing.
“Funds transfer” and “payment order” have the same meanings as defined in §46-4A-101 et seq. of
this section.

§31A-2C-6.

Third-party

notifications.

(a) A depository institution or its employees may notify an associated third party, if any, if the depository institution or its employees believe that the financial exploitation of the eligible adult is occurring, has or may have occurred, is being attempted, or has been or may have been attempted.

(b) A depository institution or its employees, may choose not to notify an associated third party as described in subsection (a) of this section, if the depository institution or its employees believe that the third party is, may be, or may have been engaged in the financial exploitation of the eligible adult.

9 (c) When providing information under subsection (a) of this section, a depository institution
10 or its employees may limit the information provided to disclosing their suspicion that the eligible
11 adult may be a victim or target of financial exploitation.

12 (d) Any disclosure under subsection (a) of this section is exempt from coverage by state
13 privacy laws and requirements.

§31A-2C-7 No Private Cause of Action.

1 Compliance with this article shall not serve as the basis for a private cause of action
2 against any depository institution or its employees unless there is clear and convincing evidence
3 the depository institution or its employees acted in bad faith to further the financial exploitation.