

SENATE BILL No. 346

May 2, 2017, Introduced by Senators ANANICH, JONES, BIEDA, GREGORY,
MARLEAU, HANSEN and ROCCA and referred to the Committee on Banking and
Financial Institutions.

A bill to amend 2008 PA 551, entitled
"Uniform securities act (2002),"
(MCL 451.2101 to 451.2703) by amending the title and by adding
article 5A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to enact the uniform securities act (2002) relating to
the issuance, offer, sale, or purchase of securities; to prohibit
fraudulent practices in relation to securities; to establish civil
and criminal sanctions for violations of the act and civil
sanctions for violation of the rules promulgated pursuant to the
act; to require the registration of broker-dealers, agents,
investment advisers, and securities; to regulate Michigan
investment markets; to make uniform the law with reference to

1 securities; TO AUTHORIZE CERTAIN ACTIONS TO PROTECT FINANCIALLY
2 ENDANGERED ADULTS FROM FINANCIAL EXPLOITATION IN RELATION TO
3 SECURITIES AND PROVIDE PROTECTION FROM CIVIL LIABILITY FOR THOSE
4 ACTIONS; TO PRESCRIBE THE POWERS AND DUTIES OF CERTAIN STATE
5 GOVERNMENTAL OFFICERS AND AGENCIES; and to repeal acts and parts of
6 acts.

7 ARTICLE 5A

8 FINANCIAL EXPLOITATION OF FINANCIALLY ENDANGERED ADULTS

9 SEC. 531. AS USED IN THIS ARTICLE:

10 (A) "FINANCIAL EXPLOITATION" MEANS 1 OR MORE OF THE FOLLOWING:

11 (i) A WRONGFUL OR UNAUTHORIZED TAKING, WITHHOLDING, OR USE OF
12 MONEY, ASSETS, OR PROPERTY OF A FINANCIALLY ENDANGERED ADULT.

13 (ii) AN ACT OR OMISSION BY A PERSON, INCLUDING THROUGH THE USE
14 OF A POWER OF ATTORNEY, GUARDIANSHIP, OR CONSERVATORSHIP OF A
15 FINANCIALLY ENDANGERED ADULT, TO DO ANY OF THE FOLLOWING:

16 (A) OBTAIN CONTROL, THROUGH DECEPTION, INTIMIDATION, OR UNDUE
17 INFLUENCE, OVER THE FINANCIALLY ENDANGERED ADULT'S MONEY, ASSETS,
18 OR PROPERTY TO DEPRIVE THE FINANCIALLY ENDANGERED ADULT OF THE
19 OWNERSHIP, USE, BENEFIT, OR POSSESSION OF HIS OR HER MONEY, ASSETS,
20 OR PROPERTY.

21 (B) CONVERT MONEY, ASSETS, OR PROPERTY OF A FINANCIALLY
22 ENDANGERED ADULT TO DEPRIVE HIM OR HER OF THE OWNERSHIP, USE,
23 BENEFIT, OR POSSESSION OF HIS OR HER MONEY, ASSETS, OR PROPERTY.

24 (B) "FINANCIALLY ENDANGERED ADULT" MEANS ANY OF THE FOLLOWING:

25 (i) AN INDIVIDUAL WHO IS 65 YEARS OF AGE OR OLDER.

26 (ii) AN ADULT IN NEED OF PROTECTIVE SERVICES, AS DEFINED IN
27 SECTION 11 OF THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.11.

1 (C) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, PARENT,
2 OR SIBLING.

3 (D) "QUALIFIED INDIVIDUAL" MEANS AN AGENT, INVESTMENT ADVISER
4 REPRESENTATIVE, OR OTHER INDIVIDUAL WHO SERVES IN A SUPERVISORY,
5 COMPLIANCE, OR LEGAL CAPACITY FOR A BROKER-DEALER OR INVESTMENT
6 ADVISER.

7 SEC. 533. (1) IF A QUALIFIED INDIVIDUAL REASONABLY BELIEVES
8 THAT FINANCIAL EXPLOITATION OF A FINANCIALLY ENDANGERED ADULT MAY
9 HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED, OR IS BEING ATTEMPTED, THE
10 QUALIFIED INDIVIDUAL SHALL PROMPTLY NOTIFY THE ADMINISTRATOR AND
11 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

12 (2) A QUALIFIED INDIVIDUAL WHO IN GOOD FAITH AND EXERCISING
13 REASONABLE CARE MAKES A DISCLOSURE OF INFORMATION UNDER THIS
14 SECTION IS IMMUNE FROM ADMINISTRATIVE OR CIVIL LIABILITY THAT MIGHT
15 OTHERWISE ARISE FROM THE DISCLOSURE OR FOR ANY FAILURE TO NOTIFY
16 THE CUSTOMER OF THE DISCLOSURE.

17 (3) IF A QUALIFIED INDIVIDUAL WHO IN GOOD FAITH AND EXERCISING
18 REASONABLE CARE DOES NOT DISCLOSE INFORMATION ABOUT A FINANCIALLY
19 ENDANGERED ADULT TO THE ADMINISTRATOR OR DEPARTMENT OF HEALTH AND
20 HUMAN SERVICES UNDER THIS SECTION, OR TO ANY OF THE PERSONS
21 DESCRIBED IN SECTION 535, BECAUSE HE OR SHE HAS A GENUINELY HELD
22 BELIEF THAT FINANCIAL EXPLOITATION OF THE FINANCIALLY ENDANGERED
23 ADULT HAS NOT OCCURRED, HE OR SHE IS IMMUNE FROM ADMINISTRATIVE OR
24 CIVIL LIABILITY THAT MIGHT OTHERWISE ARISE IF ANOTHER PERSON
25 REPORTS THAT FINANCIAL EXPLOITATION OF THE FINANCIALLY ENDANGERED
26 ADULT MAY HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED, OR IS BEING
27 ATTEMPTED.

1 SEC. 535. (1) IF A QUALIFIED INDIVIDUAL REASONABLY BELIEVES
2 THAT FINANCIAL EXPLOITATION OF A FINANCIALLY ENDANGERED ADULT MAY
3 HAVE OCCURRED, MAY HAVE BEEN ATTEMPTED, OR IS BEING ATTEMPTED, THE
4 QUALIFIED INDIVIDUAL MAY NOTIFY ANY OF THE FOLLOWING PERSONS
5 CONCERNING THE QUALIFIED INDIVIDUAL'S BELIEF UNLESS THE QUALIFIED
6 INDIVIDUAL REASONABLY SUSPECTS THAT THE PERSON HAS ENGAGED IN
7 FINANCIAL EXPLOITATION OR OTHER ABUSE OF THE FINANCIALLY ENDANGERED
8 ADULT:

9 (A) AN IMMEDIATE FAMILY MEMBER OF THE FINANCIALLY ENDANGERED
10 ADULT.

11 (B) A LEGAL GUARDIAN OF THE FINANCIALLY ENDANGERED ADULT.

12 (C) A CONSERVATOR OF THE FINANCIALLY ENDANGERED ADULT.

13 (D) A TRUSTEE, COTRUSTEE, OR SUCCESSOR TRUSTEE OF THE ACCOUNT
14 OF THE FINANCIALLY ENDANGERED ADULT.

15 (E) AN AGENT UNDER A POWER OF ATTORNEY OF THE FINANCIALLY
16 ENDANGERED ADULT.

17 (F) ANY INDIVIDUAL PREVIOUSLY DESIGNATED BY THE FINANCIALLY
18 ENDANGERED ADULT IN A CUSTOMER AGREEMENT.

19 (G) ANY OTHER PERSON PERMITTED UNDER EXISTING LAW.

20 (2) A QUALIFIED INDIVIDUAL WHO, IN GOOD FAITH AND EXERCISING
21 REASONABLE CARE, COMPLIES WITH SUBSECTION (1) IS IMMUNE FROM ANY
22 ADMINISTRATIVE OR CIVIL LIABILITY THAT MIGHT OTHERWISE ARISE FROM
23 THE DISCLOSURE.

24 SEC. 537. (1) A BROKER-DEALER OR INVESTMENT ADVISER MAY DELAY
25 A DISBURSEMENT FROM AN ACCOUNT OF A FINANCIALLY ENDANGERED ADULT OR
26 AN ACCOUNT ON WHICH A FINANCIALLY ENDANGERED ADULT IS A BENEFICIARY
27 IF ALL OF THE FOLLOWING ARE MET:

1 (A) THE BROKER-DEALER, INVESTMENT ADVISER, OR QUALIFIED
2 INDIVIDUAL REASONABLY BELIEVES, AFTER INITIATING AN INTERNAL REVIEW
3 OF THE REQUESTED DISBURSEMENT AND THE SUSPECTED FINANCIAL
4 EXPLOITATION, THAT THE REQUESTED DISBURSEMENT MAY RESULT IN
5 FINANCIAL EXPLOITATION OF A FINANCIALLY ENDANGERED ADULT.

6 (B) THE BROKER-DEALER OR INVESTMENT ADVISER DOES ALL OF THE
7 FOLLOWING:

8 (i) IMMEDIATELY, BUT IN NO EVENT MORE THAN 2 BUSINESS DAYS
9 AFTER THE REQUESTED DISBURSEMENT, PROVIDES WRITTEN NOTIFICATION OF
10 THE DELAY AND THE REASON FOR THE DELAY TO EACH INDIVIDUAL WHO IS
11 AUTHORIZED TO TRANSACT BUSINESS ON THE ACCOUNT, EXCEPT ANY OF THOSE
12 INDIVIDUALS WHO ARE REASONABLY BELIEVED TO HAVE ENGAGED IN
13 SUSPECTED OR ATTEMPTED FINANCIAL EXPLOITATION OF THE FINANCIALLY
14 ENDANGERED ADULT.

15 (ii) IMMEDIATELY, BUT IN NO EVENT MORE THAN 2 BUSINESS DAYS
16 AFTER THE REQUESTED DISBURSEMENT, NOTIFIES THE ADMINISTRATOR AND
17 THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

18 (iii) CONTINUES ITS INTERNAL REVIEW OF THE SUSPECTED OR
19 ATTEMPTED FINANCIAL EXPLOITATION OF THE FINANCIALLY ENDANGERED
20 ADULT, AS NECESSARY, AND REPORTS THE INVESTIGATION'S RESULTS TO THE
21 ADMINISTRATOR AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
22 WITHIN 7 BUSINESS DAYS AFTER THE REQUESTED DISBURSEMENT.

23 (2) A DELAY OF A DISBURSEMENT THAT IS AUTHORIZED UNDER
24 SUBSECTION (1) EXPIRES WHEN THE EARLIER OF THE FOLLOWING IS MET:

25 (A) THE DATE THE BROKER-DEALER OR INVESTMENT ADVISER MAKES A
26 DETERMINATION THAT THE DISBURSEMENT WILL NOT RESULT IN FINANCIAL
27 EXPLOITATION OF THE FINANCIALLY ENDANGERED ADULT.

1 (B) A PERIOD OF 15 BUSINESS DAYS AFTER THE DATE ON WHICH THE
2 BROKER-DEALER OR INVESTMENT ADVISER FIRST DELAYED DISBURSEMENT OF
3 THE FUNDS HAS EXPIRED, UNLESS EITHER THE ADMINISTRATOR OR THE
4 DEPARTMENT OF HEALTH AND HUMAN SERVICES REQUESTS THAT THE BROKER-
5 DEALER OR INVESTMENT ADVISER EXTEND THAT PERIOD. IF THE
6 ADMINISTRATOR OR DEPARTMENT OF HEALTH AND HUMAN SERVICES REQUESTS
7 AN EXTENSION UNDER THIS SUBDIVISION, THE DELAY EXPIRES 25 BUSINESS
8 DAYS AFTER THE DATE ON WHICH THE BROKER-DEALER OR INVESTMENT
9 ADVISER FIRST DELAYED DISBURSEMENT OF THE FUNDS, UNLESS THE
10 ADMINISTRATOR, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR A
11 COURT OF COMPETENT JURISDICTION BY ORDER ESTABLISHES AN EARLIER
12 EXPIRATION DATE.

13 (3) A COURT OF COMPETENT JURISDICTION MAY ENTER AN ORDER
14 EXTENDING THE DELAY OF THE DISBURSEMENT OF FUNDS UNDER THIS SECTION
15 OR MAY ORDER OTHER PROTECTIVE RELIEF BASED ON THE PETITION OF THE
16 ADMINISTRATOR, THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE
17 BROKER-DEALER OR INVESTMENT ADVISER THAT INITIATED THE DELAY UNDER
18 THIS SECTION, OR ANOTHER INTERESTED PARTY.

19 (4) A BROKER-DEALER OR INVESTMENT ADVISER THAT, IN GOOD FAITH
20 AND EXERCISING REASONABLE CARE, COMPLIES WITH THIS SECTION IS
21 IMMUNE FROM ANY ADMINISTRATIVE OR CIVIL LIABILITY THAT MIGHT
22 OTHERWISE ARISE FROM A DELAY IN A DISBURSEMENT THAT IS AUTHORIZED
23 UNDER THIS SECTION.

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No._345

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of the 99th Legislature is enacted into law.