
A BILL FOR AN ACT

RELATING TO SECURITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 485A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . PROTECTION OF VULNERABLE ADULTS FROM FINANCIAL
5 EXPLOITATION

6 §485A-A Definitions. As used in this part, unless the
7 context otherwise requires:

8 "Financial exploitation" means:

9 (1) The wrongful or unauthorized taking, withholding,
10 appropriation, or use of money, assets, or property of
11 a vulnerable adult; or

12 (2) Any act or omission by a person, including through the
13 use of a power of attorney, guardianship, or
14 conservatorship of a vulnerable adult, to:

15 (A) Obtain control through deception, intimidation,
16 or undue influence over the vulnerable adult's
17 money, assets, or property to deprive the



1 vulnerable adult of the ownership, use, benefit,
2 or possession of the vulnerable adult's money,
3 assets, or property; or

4 (B) Convert money, assets, or property of the
5 vulnerable adult to deprive the vulnerable adult
6 of the ownership, use, benefit, or possession of
7 the vulnerable adult's money, assets, or
8 property.

9 "Qualified person" means any agent, broker-dealer,
10 investment adviser representative, investment adviser, or person
11 who serves in a supervisory or compliance capacity for a broker-
12 dealer or an investment adviser.

13 "Reasonably associated individual" means any person known
14 to the qualified person to be reasonably associated with the
15 account.

16 "Vulnerable adult" means:

- 17 (1) A person sixty-two years of age or older; or
- 18 (2) A person eighteen years of age or older who, because
19 of mental, developmental, or physical impairment, is
20 unable to:



- 1 (A) Communicate or make responsible decisions to
- 2 manage the person's own care or resources;
- 3 (B) Carry out or arrange for essential activities of
- 4 the person's daily living; or
- 5 (C) Protect oneself from abuse, as defined in section
- 6 346-222.

7 **§485A-B Governmental disclosures.** If a qualified person
 8 reasonably believes that financial exploitation of a vulnerable
 9 adult may have occurred, may have been attempted, or is being
 10 attempted, the qualified person may notify the commissioner in a
 11 timely manner.

12 **§485A-C Immunity for governmental disclosures.** A
 13 qualified person who, in good faith and exercising reasonable
 14 care, makes a disclosure of information pursuant to section
 15 485A-B or who otherwise discloses information concerning the
 16 financial exploitation of a vulnerable adult to a broker-dealer,
 17 investment adviser, or a person who serves in a supervisory or
 18 compliance capacity for a broker-dealer, an investment adviser,
 19 or adviser shall be immune from administrative or civil
 20 liability that might otherwise arise from the disclosure or for
 21 any failure to notify the commissioner of the disclosure.



1 **§485A-D Third-party disclosures.** If a qualified person
2 reasonably believes that financial exploitation of a vulnerable
3 adult may have occurred, may have been attempted, or is being
4 attempted, a qualified person may notify a broker-dealer,
5 investment adviser, or a person who serves in a supervisory or
6 compliance capacity for a broker-dealer, an investment adviser,
7 or adviser. Disclosure shall not be made to any reasonably
8 associated individual or previously designated third party that
9 is suspected of financial exploitation or other abuse of the
10 vulnerable adult.

11 **§485A-E Immunity for third-party disclosures.** A qualified
12 person who, in good faith and exercising reasonable care,
13 complies with section 485A-D shall be immune from any
14 administrative or civil liability that might otherwise arise
15 from the disclosure.

16 **§485A-F Delaying disbursements.** (a) A broker-dealer or
17 investment adviser may delay a disbursement from an account of a
18 vulnerable adult or an account on which a vulnerable adult is a
19 beneficiary if:

20 (1) The broker-dealer or investment adviser reasonably
21 believes, after initiating an internal review of the



1 requested disbursement and the suspected financial
2 exploitation, that the requested disbursement may
3 result in financial exploitation of the vulnerable
4 adult; and .

5 (2) The broker-dealer or investment adviser:

6 (A) Immediately, but in no event more than two
7 business days after the requested disbursement,
8 provides written notification of the delay and
9 the reason for the delay to all parties
10 authorized to transact business on the account,
11 unless any such party is reasonably believed to
12 have engaged in suspected or attempted financial
13 exploitation of the vulnerable adult;

14 (B) Immediately, but in no event more than two
15 business days after the requested disbursement,
16 notifies the commissioner; and

17 (C) Continues the internal review of the suspected or
18 attempted financial exploitation of the
19 vulnerable adult, as necessary, and reports the
20 investigation's results to the commissioner



1 within seven business days after the requested
2 disbursement.

3 (b) Any delay of a disbursement as authorized by this
4 section shall expire upon the sooner of:

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

8 (2) Fifteen business days after the date on which the
9 broker-dealer or investment adviser first delayed
10 disbursement of the funds, unless the commissioner
11 requests that the broker-dealer or investment adviser
12 extend the delay, in which case the delay shall expire
13 no more than twenty-five business days after the date
14 on which the broker-dealer or investment adviser first
15 delayed disbursement of the funds, unless sooner
16 terminated by the commissioner or by an order of a
17 court of competent jurisdiction.

18 (c) A court of competent jurisdiction may enter an order
19 extending the delay of the disbursement of funds or may order
20 other protective relief based on the petition of the
21 commissioner, the broker-dealer or investment adviser who

1 initiated the delay under this section, or other interested
2 party.

3 **§485A-G Immunity for delaying disbursements.** A broker-
4 dealer, investment adviser, or qualified individual who, in good
5 faith and exercising reasonable care, complies with section
6 485A-F shall be immune from any administrative or civil
7 liability that might otherwise arise from a delay in
8 disbursement in accordance with this section.

9 **§485A-H Records.** A broker-dealer or investment adviser
10 shall provide access to or copies of records that are relevant
11 to the suspected or attempted financial exploitation of a
12 vulnerable adult to the commissioner, department of human
13 services, or law enforcement, either as part of a referral to
14 the commissioner, department of human services, or law
15 enforcement, or upon request of the commissioner, department of
16 human services, or law enforcement pursuant to an investigation.
17 The records may include historical records as well as records
18 relating to the most recent transaction or transactions that may
19 comprise financial exploitation of a vulnerable adult. All
20 records made available under this section shall be kept
21 confidential pursuant to section 92F-13(4).



1 Nothing in this section shall limit or otherwise impede the
2 authority of the commissioner to access or examine the books and
3 records of broker-dealers and investment advisers as otherwise
4 provided by law.

5 §485A-I Multiple duties to report. Compliance with this
6 part shall not discharge the duty to report suspected abuse
7 under any other section."

8 SECTION 2. In codifying the new sections added by section
9 1 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 and referring to the new sections in this Act.

12 SECTION 3. This Act shall take effect on December 31,
13 2059.



Report Title:

Uniform Securities Act; Vulnerable Adult; Financial Exploitation

Description:

Protects vulnerable adults from financial exploitation in relation to securities. Effective on 12/31/2059. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

