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# 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 ELDERS AND VULNERABLE ADULTS FROM  
5 FINANCIAL EXPLOITATION

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

8 "Elder" means a person sixty-two years of age or older.

9 "Financial exploitation" means:

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

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

16 (A) Obtain control through deception, intimidation,  
17 or undue influence over the elder's or vulnerable



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

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

14 "Reasonably associated individual" means any person known  
15 to the qualified person to be reasonably associated with the  
16 elder, the vulnerable adult, or the account.

17 "Vulnerable adult" means a person eighteen years of age or  
18 older who, because of mental, developmental, or physical  
19 impairment, is unable to:

20 (1) Communicate or make responsible decisions to manage  
21 the person's own care or resources;



1 (2) Carry out or arrange for essential activities of the  
2 person's daily living; or

3 (3) Protect oneself from abuse, as defined in section 346-  
4 222.

5 **§485A-B Governmental disclosures.** If a qualified person  
6 reasonably believes that financial exploitation of an elder or a  
7 vulnerable adult may have occurred, may have been attempted, or  
8 is being attempted, the qualified person may notify the  
9 commissioner in a timely manner.

10 **§485A-C Immunity for governmental disclosures.** A  
11 qualified person who, in good faith and exercising reasonable  
12 care, makes a disclosure of information pursuant to section  
13 485A-B shall be immune from administrative or civil liability  
14 that might otherwise arise from the disclosure or for any  
15 failure to notify the commissioner of the disclosure.

16 **§485A-D Third-party disclosures.** If a qualified person  
17 reasonably believes that financial exploitation of an elder or a  
18 vulnerable adult may have occurred, may have been attempted, or  
19 is being attempted, a qualified person may notify a reasonably  
20 associated individual or any third party previously designated  
21 by the elder or the vulnerable adult. Disclosure shall not be



1 made to any reasonably associated individual or previously  
2 designated third party that is suspected of financial  
3 exploitation or other abuse of the elder or the vulnerable  
4 adult.

5 **§485A-E Immunity for third-party disclosures.** A qualified  
6 person who, in good faith and exercising reasonable care,  
7 complies with section 485A-D shall be immune from any  
8 administrative or civil liability that might otherwise arise  
9 from the disclosure.

10 **§485A-F Delaying disbursements or transactions.** (a) A  
11 broker-dealer or investment adviser may delay a disbursement  
12 from, or a transaction in connection with, an account of an  
13 elder or a vulnerable adult or an account on which an elder or a  
14 vulnerable adult is a beneficiary if:

15 (1) The qualified person reasonably believes, after  
16 initiating an internal review of the requested  
17 disbursement or transaction and the suspected  
18 financial exploitation, that the requested  
19 disbursement or transaction may result in financial  
20 exploitation of the elder or the vulnerable adult; and

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



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

10 (B) Immediately, but in no event more than two  
11 business days after the requested disbursement or  
12 transaction is delayed, notifies the  
13 commissioner; and

14 (C) Continues the internal review of the suspected or  
15 attempted financial exploitation of the elder or  
16 the vulnerable adult, as necessary, and provides  
17 status updates to the commissioner upon request.

18 (b) Any delay of a disbursement or transaction as  
19 authorized by this section shall expire upon the sooner of:

20 (1) A determination by the broker-dealer or investment  
21 adviser that the requested disbursement or transaction



1 will not result in financial exploitation of the elder  
2 or the vulnerable adult; or

3 (2) Fifteen business days after the date on which the  
4 broker-dealer or investment adviser first delayed the  
5 requested disbursement or transaction, unless the  
6 commissioner requests that the broker-dealer or  
7 investment adviser extend the delay, in which case the  
8 delay shall expire no more than twenty-five business  
9 days after the date on which the broker-dealer or  
10 investment adviser first delayed the requested  
11 disbursement or transaction, unless sooner terminated  
12 or further extended by the commissioner or by an order  
13 of a court of competent jurisdiction.

14 (c) A court of competent jurisdiction may enter an order  
15 extending the delay of the disbursement or transaction, or may  
16 order other protective relief based on the petition of the  
17 commissioner, the broker-dealer or investment adviser who  
18 initiated the delay under this section, or other interested  
19 party.

20 **§485A-G Immunity for delaying disbursements or**  
21 **transactions.** A qualified person who, in good faith and



1 exercising reasonable care, complies with section 485A-F shall  
2 be immune from any administrative or civil liability that might  
3 otherwise arise from a delay of the requested disbursement or  
4 transaction in accordance with this section.

5       **§485A-H Records.** A broker-dealer or investment adviser  
6 shall provide access to or copies of records that are relevant  
7 to the suspected or attempted financial exploitation of an elder  
8 or a vulnerable adult to the commissioner, department of human  
9 services, or law enforcement, either as part of a referral to  
10 the commissioner, department of human services, or law  
11 enforcement, or upon request of the commissioner, department of  
12 human services, or law enforcement pursuant to an investigation.  
13 The records may include historical records as well as records  
14 relating to the most recent transaction or transactions that may  
15 comprise financial exploitation of an elder or a vulnerable  
16 adult. All records made available under this section shall not  
17 be considered a government record as defined in section 92F-3.

18       Nothing in this provision shall limit or otherwise impede  
19 the authority of the commissioner to access or examine the books  
20 and records of broker-dealers and investment advisers as  
21 otherwise provided by law.



1           **§485A-I Multiple duties to report.** Compliance with this  
2 part shall not discharge the duty to report suspected abuse  
3 under any other section."

4           SECTION 2. In codifying the new sections added by section  
5 1 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 and referring to the new sections in this Act.

8           SECTION 3. This Act shall take effect upon its approval.





H.B. NO. 2317  
H.D. 2  
S.D. 1  
Proposed

**Report Title:**

Uniform Securities Act; Vulnerable Adult; Elder; Financial  
Exploitation

**Description:**

Protects elders and vulnerable adults from financial  
exploitation in relation to securities. (Proposed SD1)

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not legislation or evidence of legislative intent.*

