
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 elder or
7 the vulnerable adult of the ownership, use,
8 benefit, or possession of the elder's or the
9 vulnerable 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 daily
- 2 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 shall 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 be
17 exempt from disclosure under chapter 92F.

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. 2

Report Title:

Uniform Securities Act; Vulnerable Adult; Elder; Financial
Exploitation

Description:

Protects elders and vulnerable adults from financial
exploitation in relation to securities. (SD2)

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

