

By: Senator(s) Caughman

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2202

1 AN ACT TO AUTHORIZE A FINANCIAL INSTITUTION TO DELAY THE
2 COMPLETION OF A FINANCIAL TRANSACTION, IF THE INSTITUTION BELIEVES
3 IN GOOD FAITH THAT A REQUESTED TRANSACTION MAY RESULT IN, OR BE
4 THE RESULT OF, EXPLOITATION OF AN ELIGIBLE PERSON; TO PROVIDE THAT
5 A TRANSACTION DELAY WILL EXPIRE UPON EITHER A GOOD-FAITH
6 DETERMINATION BY THE FINANCIAL INSTITUTION THAT THE TRANSACTION
7 WILL NOT RESULT IN EXPLOITATION, OR 15 BUSINESS DAYS, UNLESS THE
8 DEPARTMENT OF HUMAN SERVICES OR A LAW ENFORCEMENT AUTHORITY
9 REQUESTS THAT THE FINANCIAL INSTITUTION EXTEND THE DELAY; TO
10 REQUIRE THE FINANCIAL INSTITUTION TO NOTIFY THE DEPARTMENT OF
11 HUMAN SERVICES AND AUTHORIZE THE FINANCIAL INSTITUTION TO NOTIFY
12 OTHER CERTAIN INDIVIDUALS IF A TRANSACTION IS DELAYED; TO LIMIT
13 THE LIABILITY OF A FINANCIAL INSTITUTION THAT EITHER DELAYS A
14 TRANSACTION OR DOES NOT DELAY A TRANSACTION; AND FOR RELATED
15 PURPOSES.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

17 **SECTION 1.** (1) As used in this section, the following terms
18 shall have the following meanings, unless the context clearly
19 requires otherwise:

20 (a) "Eligible person" means a vulnerable person, or any
21 person age sixty-five (65) or older.

22 (b) "Exploitation" of an eligible person has the same
23 meaning as set forth in Section 43-47-5.



24 (c) "Financial institution" means a bank, trust
25 company, mutual savings bank, savings and loan association or
26 credit union authorized to do business and accept deposits in this
27 state under state or federal law.

28 (d) "Good faith" means honesty in fact.

29 (e) "Vulnerable person" has the same meaning as set
30 forth in Section 43-47-5.

31 (2) If an officer of a financial institution or a branch
32 manager believes in good faith that a requested transaction of any
33 kind may result in, or be the result of, exploitation of an
34 eligible person, the institution may delay the completion or
35 execution of the transaction for a period of time not to exceed
36 ten (10) days, unless extended as provided in this section.

37 (3) Any delay of a financial transaction as authorized by
38 this section will expire upon either:

39 (a) A good-faith determination by the financial
40 institution that the transaction will not result in, or is not the
41 result of, exploitation of the eligible person; or

42 (b) Ten (10) days, unless the Department of Human
43 Services or a law enforcement authority requests that the bank
44 extend the delay, in which case the delay shall be extended for an
45 additional period of up to ten (10) business days unless otherwise
46 extended or terminated by court order. The Department of Human
47 Services, any law enforcement authority or any interested person



may petition a court of competent jurisdiction to enter an order extending or terminating the delay of a transaction.

(4) If a transaction is delayed, the financial institution shall promptly notify the Department of Human Services, and at its option may notify any person who is authorized to have access to or transact business on any account of the eligible person with the financial institution, any person reasonably associated with the eligible person, or any other person permitted by state or federal laws or regulations or by customer agreement. If an officer of the financial institution suspects exploitation, the financial institution must notify a federal, state or local law enforcement agency within forty-eight (48) hours. The financial institution may disclose in connection with such notification information about the transaction, the reason for the delay, and any information that may be included in a report of abuse, neglect or exploitation as provided in Section 43-47-7.

(5) A financial institution and its officers, directors, employees, agents and representatives shall have no duty to act pursuant to this section. Nothing in this section shall change any contractual or other lawful right or authority a financial institution may have to refuse or delay a transaction.

(6) A financial institution and its officers, directors, employees, agents and representatives shall be immune from any administrative, civil, or criminal liability that might otherwise arise for taking action or not taking action pursuant to this



73 section and for making any disclosure or delaying any transaction
74 permitted by this section. The immunity provided for in this
75 subsection shall not apply to any individual who is a perpetrator
76 of exploitation of the eligible person.

77 **SECTION 2.** This act shall take effect and be in force from
78 and after July 1, 2020.

