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**HOUSE BILL NO. 2225**

Offered January 9, 2019

Prefiled January 8, 2019

*A BILL to amend the Code of Virginia by adding a section numbered 63.2-1606.01, relating to immunity of financial institutions and their employees for liability; disclosure of potential financial exploitation of adults.*

Patrons—O'Quinn, Adams, D.M., Bagby, Campbell, J.L., Carr, Delaney, Kory, Levine, Lindsey, McGuire, Pillion, Rasoul, Rodman, Sickles, Simon and Watts

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 63.2-1606.01 as follows:**

**§ 63.2-1606.01. Immunity for disclosures related to financial exploitation of adults.**

*A. As used in this section:*

*"Adult" has the meaning ascribed to the term in § 63.2-1603.*

*"Bank Secrecy Act officer" means an individual responsible for ensuring compliance with the requirements mandated by the federal Bank Secrecy Act, 31 U.S.C. § 5311 et seq.*

*"Covered agency" means the Department; any local department of social services of any locality; each of the entities represented in the membership of the Federal Financial Institutions Examination Council established under § 1004 of the Federal Financial Institutions Examination Council Act of 1978, 12 U.S.C. § 3303; the U.S. Securities and Exchange Commission; a law-enforcement agency; or any other state or local agency responsible for administering adult protective service laws.*

*"Covered financial institution" means a bank, trust company, savings institution, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.*

*"Exploitation" means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or a fiduciary, that:*

*1. Uses the resources of an adult for monetary or personal benefit, profit, or gain; or*

*2. Results in depriving an adult of rightful access to or use of benefits, resources, belongings, or assets.*

*"Insurance company" has the meaning given the term in § 2(a) of the Investment Advisers Act of 1940, 15 U.S.C. § 80a-2(a).*

*"Insurance producer" means an individual who is required under state law to be licensed in order to sell, solicit, or negotiate a contract of insurance.*

*"Investment adviser" has the meaning given the term in § 202(a) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-2(a).*

*"Investment adviser representative" means an individual who is employed by or associated with an investment adviser and does not perform solely clerical or ministerial acts.*

*"Registered representative" means an individual who represents a broker-dealer in effecting or attempting to effect a purchase or sale of securities.*

*B. An individual who has received the training described in subsection F shall not be liable, including in any civil or administrative proceeding, for disclosing the suspected exploitation of an adult to a covered agency if the individual, at the time of the disclosure:*

*1. Served as a supervisor or compliance officer, including as a Bank Secrecy Act officer for or, in the case of a registered representative, investment adviser representative, or insurance producer, affiliated or associated with a covered financial institution; and*

*2. Made the disclosure in good faith and with reasonable care.*

*C. A covered financial institution shall not be liable, including in any civil or administrative proceeding, for a disclosure made by an individual described in subsection B if:*

*1. The individual was employed by or, in the case of a registered representative, insurance producer, or investment adviser representative, affiliated or associated with the covered financial institution at the time of the disclosure; and*

*2. Before the time of the disclosure, each individual described in subsection E received the training described in subsection F.*

*D. Nothing in subsection B or C shall be construed to limit the liability of an individual or a covered financial institution in a civil action for any act, omission, or fraud that is not a disclosure of suspected exploitation of an adult to a covered agency.*

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58 E. A covered financial institution or a third party selected by a covered financial institution may  
59 provide the training described in subsection F to each officer or employee of, or registered  
60 representative, insurance producer, or investment adviser representative affiliated or associated with, the  
61 covered financial institution who:

62 1. Is described in subdivision B 1;

63 2. May come into contact with an adult as a regular part of the professional duties of the individual;  
64 or

65 3. May review or approve the financial documents, records, or transactions of an adult in connection  
66 with providing financial services to an adult.

67 F. The content of the training that a covered financial institution or a third party selected by the  
68 covered financial institution may provide shall:

69 1. Be maintained by the covered financial institution and made available to a covered agency with  
70 examination authority over the covered financial institution, upon request, except that a covered  
71 financial institution shall not be required to maintain or make available such content with respect to any  
72 individual who is no longer employed by or affiliated or associated with the covered financial  
73 institution;

74 2. Instruct any individual attending the training on how to identify and report the suspected  
75 exploitation of an adult internally and, as appropriate, to government officials or law-enforcement  
76 authorities, including common signs that indicate the financial exploitation of an adult;

77 3. Discuss the need to protect the privacy and respect the integrity of each individual customer of the  
78 covered financial institution; and

79 4. Be appropriate to the job responsibilities of the individual attending the training.

80 G. The training that a covered financial institution or a third party selected by the financial  
81 institution may provide shall be provided:

82 1. As soon as reasonably practicable; and

83 2. With respect to an individual who begins employment with or becomes affiliated or associated  
84 with a covered financial institution after July 1, 2019, not later than one year after the individual  
85 becomes employed by or affiliated or associated with the covered financial institution in a position  
86 described in subdivision E 1, 2, or 3.

87 H. A covered financial institution shall:

88 1. Maintain a record of each individual who:

89 a. Is employed by or affiliated or associated with the covered financial institution in a position  
90 described in subdivision E 1, 2, or 3; and

91 b. Has completed the training under subsection E, regardless of whether the training was:

92 (1) Provided by the covered financial institution or a third party selected by the covered financial  
93 institution;

94 (2) Completed before the individual was employed by or affiliated or associated with the covered  
95 financial institution; or

96 (3) Completed before, on, or after July 1, 2019; and

97 2. Upon request, provide a record described in subdivision 1 to a covered agency with examination  
98 authority over the covered financial institution.

99 G. Nothing in this section shall be construed to preempt or limit § 63.2-1606 or other provision of  
100 state law, except only to the extent that this section provides a greater level of protection against  
101 liability to an individual described in subdivision B 1 or to a covered financial institution described in  
102 subdivision C 1 than is provided by § 63.2-1606 or other provision of state law.