

1 application or request, or any written agreement entered into with the
2 superintendent.

3 § 5. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law.

5 PART AA

6 Section 1. The banking law is amended by adding a new section 4-d to
7 read as follows:

8 § 4-d. Protecting vulnerable adults from financial exploitation. 1.

9 Definitions. As used in this section:

10 (a) "Banking institution" means any bank, trust company, savings bank,
11 savings and loan association, credit union, or branch of a foreign bank-
12 ing corporation, which is chartered, organized or licensed under the
13 laws of this state or any other state or the United States, and, in the
14 ordinary course of business takes deposit accounts in this state.

15 (b) "Vulnerable adult" means an individual who, because of mental
16 and/or physical impairment is potentially unable to manage his or her
17 own resources or protect himself or herself from financial exploitation.

18 (c) "Financial exploitation" means: (i) the improper taking, withhold-
19 ing, appropriation, or use of a vulnerable adult's money, assets, or
20 property; or (ii) any act or omission by a person, including through the
21 use of a power of attorney, guardianship, or any other authority regard-
22 ing a vulnerable adult to: (A) obtain control, through deception, intim-
23 idation or undue influence, over the vulnerable adult's money, assets,
24 or property or (B) convert the vulnerable adult's money, assets, or
25 property.

1 (d) "Transaction hold" means a delay in the completion of one or more
2 financial transactions pending an investigation by a banking institu-
3 tion, adult protective services, or a law enforcement agency.

4 (e) "Adult protective services" means the division of the New York
5 City Human Resources Administration and each county's department of
6 human services or department of social services responsible for provid-
7 ing adult protective services pursuant to section four hundred seventy-
8 three of the social services law.

9 (f) "Law enforcement agency" means any agency, including the financial
10 frauds and consumer protection unit of the department of financial
11 services, which is empowered by law to conduct an investigation or to
12 make an arrest for a felony, and any agency which is authorized by law
13 to prosecute or participate in the prosecution of a felony.

14 2. Application of transaction hold. (a) If a banking institution
15 reasonably believes: (i) that financial exploitation of a vulnerable
16 adult may have occurred, may have been attempted, or is being attempted;
17 and (ii) that the placement of a transaction hold may be necessary to
18 protect a vulnerable adult's money, assets, or property from financial
19 exploitation, then the banking institution may, at its discretion, apply
20 a transaction hold on the account of a vulnerable adult, the account on
21 which a vulnerable adult is a beneficiary, including a trust or guardi-
22 anship account, or the account of a person who is reasonably believed by
23 the banking institution to be engaging in the financial exploitation of
24 a vulnerable adult.

25 (b) A banking institution may also apply a transaction hold on the
26 account of a vulnerable adult, the account on which a vulnerable adult
27 is a beneficiary, including a trust or guardianship account, or the
28 account of a person who is reasonably believed by the banking institu-

tion to be engaging in the financial exploitation of a vulnerable adult, if: (i) adult protective services or a law enforcement agency provides information to the banking institution establishing a reasonable basis to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation.

(c) A banking institution that applies a transaction hold shall:

(i) make a reasonable effort to provide notice, orally or in writing, to all parties authorized to transact business on the account on which a transaction hold was placed within two business days of when the transaction hold was placed;

(ii) immediately, but no later than one business day after the transaction hold is placed, report the transaction hold, including the basis for the banking institution's belief that the financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, to adult protective services and to a law enforcement agency;

(iii) at the request of adult protective services or a law enforcement agency, provide all information and documents that relate to the transaction hold within three business days of the request for the information or documents; and

(iv) notwithstanding the transaction hold, make funds available from the account on which a transaction hold is placed to allow the vulnerable adult or other account holder to meet his or her ongoing obligations such as housing and other living expenses or emergency expenses as determined by adult protective services, a law enforcement agency or a not-for-profit organization that regularly provides services to

1 vulnerable adults in the community in which the vulnerable adult
2 resides.

3 (d) During the pendency of a transaction hold, a banking institution
4 may, in its discretion, also make funds available from the account on
5 which a transaction hold is placed to allow the vulnerable adult or
6 other account holder meet his or her ongoing obligations such as housing
7 and other living expenses or emergency expenses, provided the banking
8 institution does not have a reasonable basis to believe that the
9 dispersal of such funds to the vulnerable adult or other account holder
10 will result in the financial exploitation of the vulnerable adult. Any
11 such dispersal of funds pursuant to this subdivision shall be reported
12 within one business day after the dispersal is made to adult protective
13 services and to a law enforcement agency.

14 (e) The superintendent may adopt regulations identifying the factors
15 that a banking institution should consider in determining whether: (i)
16 the financial exploitation of a vulnerable adult may have occurred, may
17 have been attempted, or is being attempted; and (ii) the placement of a
18 transaction hold is necessary to protect a vulnerable adult's money,
19 assets, or property.

20 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
21 and (d) of this subdivision, a transaction hold that a banking institu-
22 tion places on an account pursuant to this section shall terminate five
23 business days after the date on which the transaction hold is applied by
24 the banking institution. A banking institution may terminate the trans-
25 action hold at any time during this five day period if the banking
26 institution is satisfied that the termination of the transaction hold is
27 not likely to result in financial exploitation of a vulnerable adult.

1 (b) A transaction hold may be extended beyond the period set forth in
2 paragraph (a) of this subdivision for up to an additional fifteen days
3 at the request of either adult protective services or a law enforcement
4 agency.

5 (c) A transaction hold may be extended beyond the periods set forth in
6 paragraphs (a) and (b) of this subdivision only pursuant to an order
7 issued by a court of competent jurisdiction.

8 (d) A transaction hold may be terminated at any time pursuant an order
9 issued by a court of competent jurisdiction.

10 4. Immunity. A banking institution or an employee of a banking insti-
11 tution shall be immune from criminal, civil, and administrative liabil-
12 ity for all good faith actions in relation to the application of this
13 section including any good faith determination to apply or not apply a
14 transaction hold on an account. Where there is reasonable basis to
15 conclude: (a) that financial exploitation of a vulnerable adult may have
16 occurred, may have been attempted, or is being attempted; and (b) that
17 the placement of a transaction hold may be necessary to protect a
18 vulnerable adult's money, assets, or property from financial exploita-
19 tion, such immunity shall not apply to a determination not to apply a
20 transaction hold when the banking institution or employee acts reckless-
21 ly or engages in intentional misconduct in making the determination, or
22 the determination results from a conflict of interest.

23 5. Certification program. The department may develop a financial
24 exploitation certification program for banking institutions. Upon
25 completion of the training components required by the program and after
26 establishing the necessary internal policies, procedures, and in-house
27 training programs, a banking institution shall receive from the depart-
28 ment an adult financial exploitation prevention certificate demonstrat-

1 ing that staff at such banking institution have been trained on how to
2 identify, help prevent, and report the financial exploitation of a
3 vulnerable adult. At the discretion of the superintendent, the certif-
4 ication program may be mandatory for banking institutions licensed by
5 the department.

6 6. Regulations. The superintendent may issue such rules and regu-
7 lations that provide the procedures for the enforcement of the terms of
8 this section and any other rules and regulations that he or she deems
9 necessary to implement the terms of this section.

10 § 2. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law.

12 PART BB

13 Section 1. The financial services law is amended by adding a new
14 section 105 to read as follows:

15 § 105. Disqualification. (a) Definitions. (1) Covered individual. The
16 term "covered individual," when used in this section, means (A) an indi-
17 vidual operating under or required to operate under a license, registra-
18 tion, permit certification or authorization under this chapter, the
19 banking law, the insurance law, or the regulations promulgated there-
20 under, (B) an owner, director, trustee, officer, employee, member or
21 partner of a covered entity, or (C) an individual otherwise engaged in
22 the business of banking, insurance or financial services in the state.

23 (2) Covered entity. The term "covered entity," when used in this
24 section, means any entity (A) operating under or required to operate
25 under a license, registration, permit, certificate or authorization
26 under the banking law or the insurance law; (B) authorized, accredited,