

Union Calendar No. 314

115TH CONGRESS
1ST SESSION

H. R. 3758

[Report No. 115-424]

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Ms. SINEMA (for herself and Mr. POLIQUIN) introduced the following bill;
which was referred to the Committee on Financial Services

NOVEMBER 28, 2017

Additional sponsors: Mr. CURBELO of Florida, Mr. POSEY, Mr. RENACCI, Mr. HULTGREN, Mr. HIMES, Mr. DAVID SCOTT of Georgia, Mr. GOTTHEIMER, Mr. FOSTER, Mr. HECK, Mr. MESSER, Mr. ROSS, Mr. BUDD, Ms. SHEA-PORTER, and Mr. HOLLINGSWORTH

NOVEMBER 28, 2017

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Senior Safe Act of
5 2017”.

6 **SEC. 2. IMMUNITY.**

7 (a) DEFINITIONS.—In this Act—

8 (1) the term “Bank Secrecy Act officer” means
9 an individual responsible for ensuring compliance
10 with the requirements mandated by subchapter II of
11 chapter 53 of title 31, United States Code (com-
12 monly known as the “Bank Secrecy Act”);

13 (2) the term “broker-dealer” means a broker
14 and a dealer, as those terms are defined in section
15 3(a) of the Securities Exchange Act of 1934 (15
16 U.S.C. 78c(a));

17 (3) the term “covered agency” means—

18 (A) a State financial regulatory agency, in-
19 cluding a State securities or law enforcement
20 authority and a State insurance regulator;

21 (B) each of the entities represented in the
22 membership of the Federal Financial Institu-
23 tions Examination Council established under
24 section 1004 of the Federal Financial Institu-

1 tions Examination Council Act of 1978 (12
2 U.S.C. 3303);

3 (C) the Securities and Exchange Commis-
4 sion;

5 (D) a securities association registered
6 under section 15A of the Securities Exchange
7 Act of 1934 (15 U.S.C. 78o-3);

8 (E) a law enforcement agency; and

9 (F) a State or local agency responsible for
10 administering adult protective service laws;

11 (4) the term “covered financial institution”
12 means—

13 (A) a credit union;

14 (B) a depository institution;

15 (C) an investment adviser;

16 (D) a broker-dealer;

17 (E) an insurance company;

18 (F) an insurance agency; and

19 (G) a transfer agent;

20 (5) the term “credit union” has the meaning
21 given the term in section 2 of the Dodd-Frank Wall
22 Street Reform and Consumer Protection Act (12
23 U.S.C. 5301);

1 (6) the term “depository institution” has the
2 meaning given the term in section 3(c) of the Fed-
3 eral Deposit Insurance Act (12 U.S.C. 1813(c));

4 (7) the term “exploitation” means the fraudu-
5 lent or otherwise illegal, unauthorized, or improper
6 act or process of an individual, including a caregiver
7 or a fiduciary, that—

8 (A) uses the resources of a senior citizen
9 for monetary or personal benefit, profit, or
10 gain; or

11 (B) results in depriving a senior citizen of
12 rightful access to or use of benefits, resources,
13 belongings, or assets;

14 (8) the term “insurance agency” means any
15 business entity that sells, solicits, or negotiates in-
16 surance coverage;

17 (9) the term “insurance company” has the
18 meaning given the term in section 2(a) of the Invest-
19 ment Company Act of 1940 (15 U.S.C. 80a–2(a));

20 (10) the term “insurance producer” means an
21 individual who is required under State law to be li-
22 censed in order to sell, solicit, or negotiate insurance
23 coverage;

24 (11) the term “investment adviser” has the
25 meaning given the term in section 202(a) of the In-

1 investment Advisers Act of 1940 (15 U.S.C. 80b–
2 2(a));

3 (12) the term “investment adviser representa-
4 tive” means an individual who—

5 (A) is employed by or associated with an
6 investment adviser; and

7 (B) does not perform solely clerical or min-
8 isterial acts;

9 (13) the term “registered representative”
10 means an individual who represents a broker-dealer
11 in effecting or attempting to effect a purchase or
12 sale of securities;

13 (14) the term “senior citizen” means an indi-
14 vidual who is not younger than 65 years of age;

15 (15) the term “State” means each of the sev-
16 eral States, the District of Columbia, and any terri-
17 tory or possession of the United States;

18 (16) the term “State insurance regulator” has
19 the meaning given the term in section 315 of the
20 Gramm-Leach-Bliley Act (15 U.S.C. 6735);

21 (17) the term “State securities or law enforce-
22 ment authority” has the meaning given the term in
23 section 24(f)(4) of the Securities Exchange Act of
24 1934 (15 U.S.C. 78x(f)(4)); and

1 (18) the term “transfer agent” has the meaning
2 given the term in section 3(a) of the Securities Ex-
3 change Act of 1934 (15 U.S.C. 78c(a)).

4 (b) IMMUNITY FROM SUIT.—

5 (1) IMMUNITY FOR INDIVIDUALS.—An indi-
6 vidual who has received the training described in
7 section 3 shall not be liable, including in any civil or
8 administrative proceeding, for disclosing the sus-
9 pected exploitation of a senior citizen to a covered
10 agency if the individual, at the time of the disclo-
11 sure—

12 (A) served as a supervisor or compliance
13 officer (including as a Bank Secrecy Act offi-
14 cer) for, or, in the case of a registered rep-
15 resentative, investment adviser representative,
16 or insurance producer, was affiliated or associ-
17 ated with, a covered financial institution; and

18 (B) made the disclosure—

19 (i) in good faith; and

20 (ii) with reasonable care.

21 (2) IMMUNITY FOR COVERED FINANCIAL INSTI-
22 TUTIONS.—A covered financial institution shall not
23 be liable, including in any civil or administrative pro-
24 ceeding, for a disclosure made by an individual de-
25 scribed in paragraph (1) if—

1 (A) the individual was employed by, or, in
2 the case of a registered representative, insur-
3 ance producer, or investment adviser represent-
4 ative, affiliated or associated with, the covered
5 financial institution at the time of the disclo-
6 sure; and

7 (B) before the time of the disclosure, each
8 individual described in section 3(a) received the
9 training described in section 3.

10 (3) RULE OF CONSTRUCTION.—Nothing in
11 paragraph (1) or (2) shall be construed to limit the
12 liability of an individual or a covered financial insti-
13 tution in a civil action for any act, omission, or
14 fraud that is not a disclosure described in paragraph
15 (1).

16 **SEC. 3. TRAINING.**

17 (a) IN GENERAL.—A covered financial institution or
18 a third party selected by a covered financial institution
19 may provide the training described in subsection (b)(1) to
20 each officer or employee of, or registered representative,
21 insurance producer, or investment adviser representative
22 affiliated or associated with, the covered financial institu-
23 tion who—

24 (1) is described in section 2(b)(1)(A);

1 (2) may come into contact with a senior citizen
2 as a regular part of the professional duties of the in-
3 dividual; or

4 (3) may review or approve the financial docu-
5 ments, records, or transactions of a senior citizen in
6 connection with providing financial services to a sen-
7 ior citizen.

8 (b) CONTENT.—

9 (1) IN GENERAL.—The content of the training
10 that a covered financial institution or a third party
11 selected by the covered financial institution may pro-
12 vide under subsection (a) shall—

13 (A) be maintained by the covered financial
14 institution and made available to a covered
15 agency with examination authority over the cov-
16 ered financial institution, upon request, except
17 that a covered financial institution shall not be
18 required to maintain or make available such
19 content with respect to any individual who is no
20 longer employed by or affiliated or associated
21 with the covered financial institution;

22 (B) instruct any individual attending the
23 training on how to identify and report the sus-
24 pected exploitation of a senior citizen internally
25 and, as appropriate, to government officials or

1 law enforcement authorities, including common
2 signs that indicate the financial exploitation of
3 a senior citizen;

4 (C) discuss the need to protect the privacy
5 and respect the integrity of each individual cus-
6 tomer of the covered financial institution; and

7 (D) be appropriate to the job responsibil-
8 ities of the individual attending the training.

9 (2) TIMING.—The training under subsection (a)
10 shall be provided—

11 (A) as soon as reasonably practicable; and

12 (B) with respect to an individual who be-
13 gins employment with or becomes affiliated or
14 associated with a covered financial institution
15 after the date of enactment of this Act, not
16 later than 1 year after the individual becomes
17 employed by or affiliated or associated with the
18 covered financial institution in a position de-
19 scribed in paragraph (1), (2), or (3) of sub-
20 section (a).

21 (3) RECORDS.—A covered financial institution
22 shall—

23 (A) maintain a record of each individual
24 who—

1 (i) is employed by or affiliated or as-
2 sociated with the covered financial institu-
3 tion in a position described in paragraph
4 (1), (2), or (3) of subsection (a); and

5 (ii) has completed the training under
6 subsection (a), regardless of whether the
7 training was—

8 (I) provided by the covered finan-
9 cial institution or a third party se-
10 lected by the covered financial institu-
11 tion;

12 (II) completed before the indi-
13 vidual was employed by or affiliated
14 or associated with the covered finan-
15 cial institution; and

16 (III) completed before, on, or
17 after the date of enactment of this
18 Act; and

19 (B) upon request, provide a record de-
20 scribed in subparagraph (A) to a covered agen-
21 cy with examination authority over the covered
22 financial institution.

23 **SEC. 4. RELATIONSHIP TO STATE LAW.**

24 Nothing in this Act shall be construed to preempt or
25 limit any provision of State law, except only to the extent

1 that section 2 provides a greater level of protection against
2 liability to an individual described in section 2(b)(1) or
3 to a covered financial institution described in section
4 2(b)(2) than is provided under State law.

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