

115TH CONGRESS
1ST SESSION

H. R. 3758

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

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

1 chapter 53 of title 31, United States Code (com-
2 monly known as the “Bank Secrecy Act”);

3 (2) the term “broker-dealer” means a broker
4 and a dealer, as those terms are defined in section
5 3(a) of the Securities Exchange Act of 1934 (15
6 U.S.C. 78c(a));

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

8 (A) a State financial regulatory agency, in-
9 cluding a State securities or law enforcement
10 authority and a State insurance regulator;

11 (B) each of the entities represented in the
12 membership of the Federal Financial Institu-
13 tions Examination Council established under
14 section 1004 of the Federal Financial Institu-
15 tions Examination Council Act of 1978 (12
16 U.S.C. 3303);

17 (C) the Securities and Exchange Commis-
18 sion;

19 (D) a securities association registered
20 under section 15A of the Securities Exchange
21 Act of 1934 (15 U.S.C. 78o–3);

22 (E) a law enforcement agency; and

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

1 (4) the term “covered financial institution”
2 means—

- 3 (A) a credit union;
- 4 (B) a depository institution;
- 5 (C) an investment adviser;
- 6 (D) a broker-dealer;
- 7 (E) an insurance company;
- 8 (F) an insurance agency; and
- 9 (G) a transfer agent;

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

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

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

- 21 (A) uses the resources of a senior citizen
22 for monetary or personal benefit, profit, or
23 gain; or

1 (B) results in depriving a senior citizen of
2 rightful access to or use of benefits, resources,
3 belongings, or assets;

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

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

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

14 (11) the term “investment adviser” has the
15 meaning given the term in section 202(a) of the In-
16 vestment Advisers Act of 1940 (15 U.S.C. 80b–
17 2(a));

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

20 (A) is employed by or associated with an
21 investment adviser; and

22 (B) does not perform solely clerical or min-
23 isterial acts;

24 (13) the term “registered representative”
25 means an individual who represents a broker-dealer

1 in effecting or attempting to effect a purchase or
2 sale of securities;

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

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

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

11 (17) the term “State securities or law enforce-
12 ment authority” has the meaning given the term in
13 section 24(f)(4) of the Securities Exchange Act of
14 1934 (15 U.S.C. 78x(f)(4)); and

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

18 (b) IMMUNITY FROM SUIT.—

19 (1) IMMUNITY FOR INDIVIDUALS.—An indi-
20 vidual who has received the training described in
21 section 3 shall not be liable, including in any civil or
22 administrative proceeding, for disclosing the sus-
23 pected exploitation of a senior citizen to a covered
24 agency if the individual, at the time of the disclo-
25 sure—

1 (A) served as a supervisor or compliance
2 officer (including as a Bank Secrecy Act offi-
3 cer) for, or, in the case of a registered rep-
4 resentative, investment adviser representative,
5 or insurance producer, was affiliated or associ-
6 ated with, a covered financial institution; and

7 (B) made the disclosure—

8 (i) in good faith; and

9 (ii) with reasonable care.

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

15 (A) the individual was employed by, or, in
16 the case of a registered representative, insur-
17 ance producer, or investment adviser represent-
18 ative, affiliated or associated with, the covered
19 financial institution at the time of the disclo-
20 sure; and

21 (B) before the time of the disclosure, each
22 individual described in section 3(a) received the
23 training described in section 3.

24 (3) RULE OF CONSTRUCTION.—Nothing in
25 paragraph (1) or (2) shall be construed to limit the

1 liability of an individual or a covered financial insti-
2 tution in a civil action for any act, omission, or
3 fraud that is not a disclosure described in paragraph
4 (1).

5 **SEC. 3. TRAINING.**

6 (a) **IN GENERAL.**—A covered financial institution or
7 a third party selected by a covered financial institution
8 may provide the training described in subsection (b)(1) to
9 each officer or employee of, or registered representative,
10 insurance producer, or investment adviser representative
11 affiliated or associated with, the covered financial institu-
12 tion who—

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

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

17 (3) may review or approve the financial docu-
18 ments, records, or transactions of a senior citizen in
19 connection with providing financial services to a sen-
20 ior citizen.

21 (b) **CONTENT.**—

22 (1) **IN GENERAL.**—The content of the training
23 that a covered financial institution or a third party
24 selected by the covered financial institution may pro-
25 vide under subsection (a) shall—

1 (A) be maintained by the covered financial
2 institution and made available to a covered
3 agency with examination authority over the cov-
4 ered financial institution, upon request, except
5 that a covered financial institution shall not be
6 required to maintain or make available such
7 content with respect to any individual who is no
8 longer employed by or affiliated or associated
9 with the covered financial institution;

10 (B) instruct any individual attending the
11 training on how to identify and report the sus-
12 pected exploitation of a senior citizen internally
13 and, as appropriate, to government officials or
14 law enforcement authorities, including common
15 signs that indicate the financial exploitation of
16 a senior citizen;

17 (C) discuss the need to protect the privacy
18 and respect the integrity of each individual cus-
19 tomer of the covered financial institution; and

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

22 (2) TIMING.—The training under subsection (a)
23 shall be provided—

24 (A) as soon as reasonably practicable; and

1 (B) with respect to an individual who be-
2 gins employment with or becomes affiliated or
3 associated with a covered financial institution
4 after the date of enactment of this Act, not
5 later than 1 year after the individual becomes
6 employed by or affiliated or associated with the
7 covered financial institution in a position de-
8 scribed in paragraph (1), (2), or (3) of sub-
9 section (a).

10 (3) RECORDS.—A covered financial institution
11 shall—

12 (A) maintain a record of each individual
13 who—

14 (i) is employed by or affiliated or as-
15 sociated with the covered financial institu-
16 tion in a position described in paragraph
17 (1), (2), or (3) of subsection (a); and

18 (ii) has completed the training under
19 subsection (a), regardless of whether the
20 training was—

21 (I) provided by the covered finan-
22 cial institution or a third party se-
23 lected by the covered financial institu-
24 tion;

1 (II) completed before the indi-
2 vidual was employed by or affiliated
3 or associated with the covered finan-
4 cial institution; and

5 (III) completed before, on, or
6 after the date of enactment of this
7 Act; and

8 (B) upon request, provide a record de-
9 scribed in subparagraph (A) to a covered agen-
10 cy with examination authority over the covered
11 financial institution.

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

13 Nothing in this Act shall be construed to preempt or
14 limit any provision of State law, except only to the extent
15 that section 2 provides a greater level of protection against
16 liability to an individual described in section 2(b)(1) or
17 to a covered financial institution described in section
18 2(b)(2) than is provided under State law.

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