

§ 108A-117.1. Transaction delays and refusals.

(a) A financial institution may choose to delay or refuse a disbursement or transaction from an account of a disabled adult or older adult or an account for which a disabled adult or older adult is a beneficiary or beneficial owner if all of the following apply:

- (1) The financial institution and its employees believe that financial exploitation of the older adult or disabled adult may have occurred, may have been attempted, or is occurring or is being attempted.
- (2) The belief is based on individual observation or information received, including information received from a government agency or law enforcement agency.
- (3) The financial institution promptly initiates an internal review of the facts and circumstances that caused an employee of the financial institution to delay or refuse the disbursement or transaction.

(b) If the conditions of subsection (a) of this section are met, a financial institution may do any of the following:

- (1) Delay or refuse one or more transactions with or involving the older adult or disabled adult.
- (2) Delay or refuse to permit the withdrawal or disbursement of funds contained in the older adult's or disabled adult's account.
- (3) Prevent a change in ownership of the older adult's or disabled adult's account.
- (4) Prevent a transfer of funds from the older adult's or disabled adult's account to an account owned wholly or partially by another person.
- (5) Refuse to comply with instructions given by an agent or a person acting for or with an agent under a power of attorney signed or purported to have been signed by the older adult or disabled adult.
- (6) Prevent the designation or change the designation of beneficiaries to receive any property, benefit, or contract rights for an older adult or disabled adult at death.

(c) A financial institution shall use discretion to determine whether or not to act under subsections (a) and (b) of this section based on the information available to its staff at the time. The authority to delay a transaction expires upon the earlier of the following:

- (1) Thirty business days after the date on which the depository institution first acted under the authority in this section.
- (2) When the depository institution is satisfied in its discretion that the transaction or act will not likely result in financial exploitation of the older adult or disabled adult.
- (3) Upon an order of a court directing the release of funds.

(d) Unless otherwise directed by order of a court, a financial institution may extend the duration of a delay up to an additional 30 business days based on a reasonable belief that the financial exploitation of an older adult or disabled adult may continue to occur or continues to be attempted.

(e) A financial institution shall create and maintain for at least five years from the date of the delayed or refused disbursement or transaction a written or electronic record that includes, at a minimum, the following information:

- (1) The date on which the delay or refusal was first placed.
- (2) The name and address of the older adult or disabled adult.
- (3) The business location of the financial institution.
- (4) The name and title of the employee who reported suspected financial exploitation of the older adult or disabled adult pursuant to G.S. 108A-115.

(5) The facts and circumstances that caused the employee to report suspected financial exploitation.

(f) A financial institution that acts in good faith and exercises reasonable care to comply with this section is immune from any civil, criminal, or administrative liability that might otherwise arise from the financial institution's action, inaction, or delay in a disbursement or transaction in accordance with this section. This protection from liability also extends to employees of a financial institution. This subsection does not supersede or diminish any immunity granted elsewhere in this Chapter. If a financial institution or its employees make, or choose not to make, a disclosure to a trusted contact or participate in a judicial proceeding, administrative proceeding, or investigation arising from a notification or report, the financial institution and its employees are immune from any civil, criminal, or administrative liability arising from the disclosure, nondisclosure, notification, or participation, unless the financial institution or its employees had actual knowledge of financial exploitation and acted with a malicious purpose. For purposes of this section, a financial institution and its employees are deemed to be acting with reasonable care if the financial institution has established training policies, programs, and procedures for its employees consistent with the requirements of subsection (g) of this section.

(g) Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution shall do all of the following:

- (1) Develop training policies or programs reasonably designed to educate employees who perform or approve transactions on behalf of customers on issues pertaining to financial exploitation of older adults or disabled adults.
- (2) With respect to an individual who begins employment with a financial institution, the training shall be conducted within one year after the date on which the individual becomes employed by or affiliated or associated with the financial institution.
- (3) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

(h) Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on the account. This section does not create new rights for or impose new obligations or new duties on a financial institution under other applicable law.

(i) Notwithstanding any other law to the contrary, the following provisions apply:

- (1) The refusal to engage in a transaction as authorized under this section does not constitute the wrongful dishonor of an item under G.S. 25-4-402.
- (2) A reasonable belief that payment of a check will facilitate the financial exploitation of an older adult or disabled adult constitutes reasonable grounds to doubt the collectability of the item for purposes of the federal Check Clearing for the 21st Century Act, 12 U.S.C. § 5001 et seq., the federal Expedited Funds Availability Act, 12 U.S.C. § 4001 et seq., and 12 C.F.R. Part 229. Nothing in this subdivision, however, requires financial institutions and their employees to review the checks of older adults or disabled adults.

(j) A delay or refusal to complete a funds transfer request as authorized under this section does not violate Article 4A of Chapter 25 of the General Statutes. Furthermore, if a transaction is delayed under this section, the payment order is not deemed as received until the hold is removed and the financial institution submits the payment order for processing. "Funds transfer" and

"payment order" have the meaning provided in Article 4A of Chapter 25 of the General Statutes.
(2026-31, s. 13.1(d).)