



March 27, 2019

## BANK EMPLOYEES REQUIRED TO REPORT UNDER OHIO'S ELDER ABUSE LAWS

Under Ohio's amended Elder Abuse law, an employee of a bank, savings bank, savings and loan association or credit union organized under the laws of Ohio, another state or the United States ("bank employees") having reasonable cause to believe that an "adult" is being abused, neglected or exploited must immediately report such belief to the applicable Ohio county Department of Job and Family Services. Under the law, "adult" is defined as any person 60 years of age or older within Ohio who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement.

Bank employees should be trained to monitor and detect situations in which these adults are being exploited. The law defines "exploitation" as the unlawful or improper act of a person using, in one or more transactions, an adult or an adult's resources for monetary or personal benefit, profit or gain when the person obtained or exerted control over the adult or the adult's resources in any of the following ways: (i) without the adult's consent or the consent of the person authorized to give consent on the adult's behalf, (ii) beyond the scope of the express or implied consent of the adult or the person authorized to give consent on the adult's behalf, (iii) by deception, (iv) by threat or (v) by intimidation.

The report that a bank employee must submit may be made orally or in writing, with the following information included:

- (1) The name, address and approximate age of the adult who is the subject of the report;
- (2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;
- (3) The nature and extent of the alleged abuse, neglect or exploitation of the adult;
- (4) The basis of the reporter's belief that the adult has been abused, neglected or exploited.

If a bank employee makes a report under the law, the bank employee will be immune from civil or criminal liability on account of

such investigation, report or testimony. The penalty for not reporting is a fine of no more than \$500.

As the population of older adults continues to grow, legislatures are responding by increasing the efforts to protect seniors from financial abuse. Last year, Congress enacted a law that includes, in part, the Senior Safe Act. See our prior ALERT dated September 19, 2018. The Senior Safe Act encourages employees of financial institutions to report suspected exploitation of a senior citizen by giving the employee and financial institution immunity from civil and administrative proceedings. The Senior Safe Act requires that the financial institution train its supervisors and compliance employees to detect situations in which a senior citizen is being exploited.

Many other states have similar laws that address financial or elder abuse and financial institutions have been encouraged or required to address these issues. Please let us know if you have any questions regarding elder abuse laws as they apply to financial institutions in Ohio or other states. ☐

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