



## FEDERAL ACT PROVIDES IMMUNITY FOR SUSPECTED ELDER ABUSE REPORTING

In May, the President signed the federal Economic Growth, Regulatory Relief and Consumer Protection Act, which includes a section that provides immunity from civil and administrative proceedings for certain financial institutions and individuals that disclose suspected exploitation of a senior citizen to a covered agency.

Specifically, under Section 303 of the Act (also known as the Senior Safe Act), immunity extends to an individual, who has received the training prescribed in the Act regarding identifying and reporting exploitation and privacy of individuals, if the individual at the time of the disclosure (i) served as a supervisor or in a compliance or legal function for a covered financial institution and (ii) made the disclosure in good faith and with reasonable care. A covered financial institution is not liable for a disclosure made by such an individual if (i) the individual was employed by the covered financial institution at the time of the disclosure and (ii) before the time of the disclosure the individual received the training described in the Act.

“Covered financial institution” includes a depository institution as defined in the Federal Deposit Insurance Act. A “covered agency” to whom an individual can report suspected exploitation and receive immunity includes (i) a state financial regulatory agency, (ii) each federal agency that is a member of the Federal Financial Institutions Examination Council, (iii) a law enforcement agency and (iv) a state or local agency responsible for administering adult protective service laws.

The Act defines “senior citizen” as an individual who is not younger than 65 years old. “Exploitation” means the fraudulent or otherwise illegal, unauthorized or improper act or process of an individual, including a caregiver or a fiduciary, that (i) uses the resources of a senior citizen for monetary or personal benefit, profit or gain or (ii) results in depriving a senior citizen of rightful access to or use of benefits, resources, belonging or assets.

The Act addresses liability concerns (subject to certain conditions) only for certain financial service providers. Notably, non-depository institutions are not “covered financial institutions” and cannot directly take advantage of the immunity from civil and administrative proceedings granted under the Act. Many states

have laws that address financial or elder abuse and financial institutions have been encouraged to address these issues. We can assist. ☐

✧ *Mike Tomkies and Susan Manship Seaman*

Darrell L. Dreher  
[ddreher@dtlaw.com](mailto:ddreher@dtlaw.com)

Elizabeth L. Anstaett  
[eanstaett@dtlaw.com](mailto:eanstaett@dtlaw.com)

Emily C. Cellier  
[ecellier@dtlaw.com](mailto:ecellier@dtlaw.com)

Susan L. Ostrander  
[sostrander@dtlaw.com](mailto:sostrander@dtlaw.com)

2750 HUNTINGTON CENTER  
41 S. HIGH STREET  
COLUMBUS, OHIO 43215  
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600  
[WWW.DTLAW.COM](http://WWW.DTLAW.COM)

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Michael C. Tomkies  
[mtomkies@dtlaw.com](mailto:mtomkies@dtlaw.com)

Susan M. Seaman  
[sseaman@dtlaw.com](mailto:sseaman@dtlaw.com)

Lindsay P. Valentine  
[lvalentine@dtlaw.com](mailto:lvalentine@dtlaw.com)

Judith M. Scheiderer  
[jscheiderer@dtlaw.com](mailto:jscheiderer@dtlaw.com)

Robin R. De Leo  
[robin@deher-la.com](mailto:robin@deher-la.com)