

Chapter 311

(Senate Bill 327)

AN ACT concerning

Civil Actions – Financial Exploitation of ~~Vulnerable~~ Susceptible Adults and Older Adults
(Maryland SAFE Act)

FOR the purpose of authorizing the Division of Consumer Protection in the Office of the Attorney General to bring certain actions on behalf of certain susceptible adults and older adults; authorizing the Securities Commissioner of the Division of Securities of the Office of the Attorney General to bring a civil action on behalf of certain susceptible adults and older adults; establishing a cause of action for certain financial exploitation of certain ~~vulnerable~~ adults; authorizing a ~~vulnerable~~ adult susceptible adults and vulnerable adults; specifying that this Act does not apply to certain financial institutions; authorizing a susceptible adult, older adult, or certain individuals in certain representative capacities to bring an action under this Act under certain circumstances; providing that an action authorized under this Act is in addition to and cumulative with certain other claims, causes of action, and remedies and shall survive the death of the ~~vulnerable~~ susceptible adult or older adult; providing that a certain party in an action brought under this Act is entitled to recover certain damages and other relief under certain circumstances; authorizing the court to award reasonable attorney’s fees and expenses to a party under certain circumstances; requiring an action under this Act to be brought within a certain period of time; providing for the purposes and construction of this Act; providing that this Act is not intended to alter or amend certain burdens of proof or certain presumptions; defining certain terms; providing for the application of this Act; and generally relating to the financial exploitation of ~~vulnerable~~ susceptible adults and older adults.

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13–204(a)(14) and (15)

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY adding to

Article – Commercial Law

Section 13–204(a)(16)

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 11–209

Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

BY adding to

Article – Estates and Trusts

Section 13–601 through ~~13–608~~ 13–609 to be under the new subtitle “Subtitle 6. Financial Exploitation of ~~Vulnerable~~ Susceptible Adults and Older Adults” and the amended title “Title 13. Protection of Minors, Disabled Persons, ~~and Vulnerable~~ Susceptible Adults, and Older Adults”

Annotated Code of Maryland

(2017 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, Financial exploitation of ~~vulnerable~~ susceptible adults and older adults over the age of ~~65~~ 67, including through theft, fraud, lottery scams, investment fraud, and unauthorized real estate transactions, is an endemic and growing problem in our society today; and

WHEREAS, Perpetrators of financial exploitation use a variety of actions and tactics, including deception, intimidation, isolation, and undue influence; and

WHEREAS, While most family members, caregivers, fiduciaries, and other trusted individuals provide needed and appropriate assistance to ~~vulnerable~~ susceptible adults and older adults, the perpetrator is often someone serving in one of these capacities; and

WHEREAS, Financial exploitation may cause a victim to lose well-earned financial security and drive the victim into poverty; and

WHEREAS, The consequences to the victim are not just limited to the financial impact but often include lasting emotional, mental, and physical harm; and

WHEREAS, Studies have shown that millions of ~~vulnerable~~ Americans over the age of ~~65~~ 67 may be targets annually, and the financial loss to victims of financial abuse is estimated to be several billion dollars each year; and

WHEREAS, These estimated financial losses increase exponentially when additional related costs to the victim, such as health care, social services, investigations, legal fees, and lost income, are taken into account; and

WHEREAS, Redress for victims of financial exploitation in Maryland is limited to adult protective services, criminal law enforcement, and costly civil remedies; and

WHEREAS, While adult protective services and the criminal justice system may offer victims some protection from further harm, victims’ cases are rarely prosecuted and restitution, even when ordered, may never be paid; and

WHEREAS, The heightened burden of proving guilt beyond a reasonable doubt in a criminal case, the difficulty of proving exploitation when the victim may be older or infirm, and the limited remedies available to adult protective services and law enforcement further support the need for a solution under civil law to address the financial exploitation of ~~vulnerable~~ susceptible adults and older adults; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Commercial Law

13-204.

(a) In addition to any other of its powers and duties, the Division has the powers and duties to:

(14) Maintain a list of nonprofit organizations that:

(i) Solely offer counseling or advice to homeowners in foreclosure or loan default; and

(ii) Are not directly or indirectly related to and do not contract for services with for-profit lenders or foreclosure purchasers, as defined in § 7-301 of the Real Property Article; [and]

(15) (i) Bring a civil action for damages or an action under this title against a person who violates § 8-801 of the Criminal Law Article on behalf of a victim of the offense or, if the victim is deceased, the victim's estate;

(ii) Recover damages under this item for property loss or damage;
and

(iii) If the Division prevails in an action brought under this item, recover the costs of the action for the use of the Office of the Attorney General; AND

(16) (I) BRING A CIVIL ACTION FOR DAMAGES OR AN ACTION UNDER THIS TITLE ON BEHALF OF A SUSCEPTIBLE ADULT OR OLDER ADULT WHO IS AUTHORIZED TO BRING A CAUSE OF ACTION UNDER § 13-603 OF THE ESTATES AND TRUSTS ARTICLE; AND

(II) IF THE DIVISION PREVAILS IN AN ACTION BROUGHT UNDER THIS ITEM, RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE OFFICE OF THE ATTORNEY GENERAL.

Article – Corporations and Associations

11-209.

(a) The Commissioner may:

(1) (I) Bring a civil action for damages against a person that violates § 8-801 of the Criminal Law Article on behalf of a victim of the violation or, if the victim is deceased, the victim's estate;

[(2)] (II) Recover damages under this subsection for property loss or damage; and

[(3)] (III) If the Commissioner prevails in an action brought under this [subsection] PARAGRAPH, recover the costs of the action for the use of the Office of the Attorney General; AND

(2) (I) BRING A CIVIL ACTION FOR DAMAGES ON BEHALF OF A SUSCEPTIBLE ADULT OR OLDER ADULT WHO IS AUTHORIZED TO BRING A CAUSE OF ACTION UNDER § 13-603 OF THE ESTATES AND TRUSTS ARTICLE; AND

(II) IF THE COMMISSIONER PREVAILS IN AN ACTION BROUGHT UNDER THIS PARAGRAPH, RECOVER THE COSTS OF THE ACTION FOR THE USE OF THE OFFICE OF THE ATTORNEY GENERAL.

(b) A conviction for a violation of § 8-801 of the Criminal Law Article is not a prerequisite for maintenance of an action under subsection (a) of this section.

Article – Estates and Trusts

Title 13. Protection of Minors [and], Disabled Persons, ~~AND VULNERABLE~~
SUSCEPTIBLE ADULTS, AND OLDER ADULTS.

SUBTITLE 6. FINANCIAL EXPLOITATION OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS AND OLDER ADULTS.

13-601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ACTIVITIES OF DAILY LIVING” MEANS BASIC ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING.

(C) “BASIC ACTIVITIES OF DAILY LIVING” MEANS THE ROUTINE ACTIVITIES THAT PEOPLE DO EVERY DAY WITHOUT ASSISTANCE THAT INCLUDE:

- (1) EATING;
- (2) BATHING;
- (3) DRESSING;
- (4) TOILETING;
- (5) MOBILITY; AND
- (6) CONTINENCE.

(D) “DECEPTION” MEANS A MISREPRESENTATION OR CONCEALMENT OF A MATERIAL FACT RELATING TO SERVICES RENDERED, DISPOSITION OF PROPERTY, OR THE USE OF PROPERTY INTENDED TO BENEFIT A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT.

(E) (1) “FINANCIAL EXPLOITATION” MEANS AN ACT TAKEN BY A PERSON WHO:

(I) STANDS IN A POSITION OF TRUST AND CONFIDENCE WITH A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT AND WHO KNOWINGLY OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, A ~~VULNERABLE~~ SUSCEPTIBLE ADULT’S OR OLDER ADULT’S FUNDS, ASSETS, OR PROPERTY WITH THE INTENT TO TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE FUNDS, ASSETS, OR PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, IN SUCH A MANNER THAT IS NOT FAIR AND REASONABLE;

(II) BY DECEPTION, FALSE PRETENSES, FALSE PROMISES, LARCENY, EMBEZZLEMENT, MISAPPLICATION, CONVERSION, INTIMIDATION, COERCION, ISOLATION, EXCESSIVE PERSUASION, OR SIMILAR ACTIONS AND TACTICS, OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, A ~~VULNERABLE~~ SUSCEPTIBLE ADULT’S OR OLDER ADULT’S FUNDS, ASSETS, OR PROPERTY WITH THE INTENT TO TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE FUNDS, ASSETS, OR PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT; OR

(III) KNOWS OR SHOULD KNOW THAT A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT LACKS CAPACITY TO CONSENT AND WHO OBTAINS OR USES, OR ENDEAVORS TO OBTAIN OR USE, THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S FUNDS, ASSETS, OR PROPERTY WITH THE INTENT TO TEMPORARILY OR PERMANENTLY DEPRIVE THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT OF THE USE, BENEFIT, OR POSSESSION OF THE FUNDS, ASSETS, OR PROPERTY FOR THE BENEFIT OF SOMEONE OTHER THAN THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT.

(2) "FINANCIAL EXPLOITATION" INCLUDES:

(I) BREACH OF A FIDUCIARY RELATIONSHIP RESULTING IN THE UNAUTHORIZED APPROPRIATION, SALE, OR TRANSFER OF PROPERTY;

(II) UNAUTHORIZED TAKING OF PERSONAL ASSETS;

(III) MISAPPROPRIATION, MISUSE, OR TRANSFER OF ASSETS BELONGING TO A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT FROM A PERSONAL OR JOINT ACCOUNT; AND

(IV) INTENTIONAL FAILURE TO EFFECTIVELY USE A ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S INCOME AND ASSETS FOR THE NECESSITIES REQUIRED FOR THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S SUPPORT AND MAINTENANCE.

(3) "FINANCIAL EXPLOITATION" DOES NOT INCLUDE AN INDIVIDUAL'S GOOD-FAITH USE OF A ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S ASSETS, INCLUDING FOR THE PURPOSES OF ESTABLISHING AND IMPLEMENTING AN ESTATE PLAN INTENDED TO REDUCE TAXES OR TO MAXIMIZE ELIGIBILITY FOR PUBLIC BENEFITS IN ORDER TO PRESERVE ASSETS FOR AN IDENTIFIED OR IDENTIFIABLE PERSON.

(F) "INSTRUMENTAL ACTIVITIES OF DAILY LIVING" MEANS THE SKILLS AND ABILITIES NEEDED TO PERFORM DAY-TO-DAY TASKS ASSOCIATED WITH AN INDEPENDENT LIFESTYLE, INCLUDING:

(1) USING THE TELEPHONE;

(2) DOING LAUNDRY AND DRESSING;

(3) SHOPPING AND RUNNING ERRANDS;

(4) SECURING TRANSPORTATION;

- (5) PREPARING MEALS;
- (6) MANAGING MEDICATIONS;
- (7) HOUSEKEEPING; AND
- (8) MANAGING FINANCES.

(G) “INTIMIDATION” MEANS A COMMUNICATION, BY WORD OR ACT, THAT A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT WILL SUFFER PHYSICAL VIOLENCE OR EMOTIONAL INJURY OR WILL BE DEPRIVED OF FOOD, NUTRITION, CLOTHING, SHELTER, SUPERVISION, MEDICINE, MEDICAL SERVICES, MONEY, SOCIAL INTERACTION, OR EMOTIONAL OR FINANCIAL SUPPORT.

(H) “OBTAINS OR USES” MEANS ANY MANNER OF TAKING OR EXERCISING CONTROL OVER PROPERTY OR MAKING ANY USE, DISPOSITION, OR TRANSFER OF PROPERTY.

(I) “OLDER ADULT” MEANS AN INDIVIDUAL WHO IS AT LEAST 68 YEARS OLD.

~~(H)~~ (J) “POSITION OF TRUST AND CONFIDENCE” MEANS A RELATIONSHIP, WHETHER FORMED BY A FORMAL OR INFORMAL AGREEMENT BETWEEN A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT AND ANOTHER PERSON OR RECOGNIZED BY A FORMAL DECLARATION OR COURT ORDER, IN WHICH:

(1) A PERSON IS ENTRUSTED WITH THE USE OR MANAGEMENT OF THE PROPERTY OR ASSETS OF THE ~~VULNERABLE ADULT OR THE VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, OR THE SUSCEPTIBLE ADULT’S OR OLDER ADULT’S CARE; OR

(2) THERE IS A SPECIAL CONFIDENCE OR TRUST PLACED IN A PERSON WHO, IN EQUITY AND GOOD CONSCIENCE, IS BOUND TO ACT IN GOOD FAITH AND WITH DUE REGARD TO THE INTERESTS OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT.

~~(J)~~ (K) ~~“VULNERABLE~~ “SUSCEPTIBLE ADULT” MEANS AN ADULT WHO IS UNABLE TO PERFORM, WITHOUT PROMPTING OR ASSISTANCE, ONE OR MORE ACTIVITIES OF DAILY LIVING, IS UNABLE TO PROTECT THE ADULT’S RIGHTS, OR HAS DIMINISHED EXECUTIVE FUNCTIONING, DUE TO:

- (1) ADVANCED AGE;

- (2) MENTAL, EMOTIONAL, SENSORY, OR PHYSICAL DISABILITY OR DISEASE;
- (3) IMPAIRED MOBILITY;
- (4) HABITUAL DRUNKENNESS;
- (5) ADDICTION TO DRUGS; OR
- (6) HOSPITALIZATION.

13-602.

THE PURPOSES OF THIS SUBTITLE ARE TO:

- (1) ESTABLISH A SEPARATE AND DISTINCT CIVIL CAUSE OF ACTION BY A VICTIM, OR A REPRESENTATIVE OF THE VICTIM, OF FINANCIAL EXPLOITATION;
- (2) PROVIDE A PATH TO REDRESS FINANCIAL EXPLOITATION THROUGH THE RECOVERY OF PROPERTY AND ASSETS TAKEN FROM VICTIMS WHILE DISCOURAGING PROTRACTED LITIGATION;
- (3) PROVIDE ACCESS TO JUSTICE FOR VICTIMS AND THEIR FAMILIES WHO ARE OTHERWISE UNABLE OR UNWILLING TO RETAIN COMPETENT LEGAL ASSISTANCE DUE TO COST; AND
- (4) STRONGLY DETER INDIVIDUALS SEEKING TO TAKE ADVANTAGE OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS OR OLDER ADULTS.

13-603.

THIS SUBTITLE DOES NOT APPLY TO AN ACT TAKEN BY:

- (1) ANY STATE OR FEDERAL BANK, TRUST COMPANY, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION; OR
- (2) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN ITEM (1) OF THIS SECTION.

~~13-603.~~ 13-604.

A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT WHO HAS BEEN SUBJECTED TO FINANCIAL EXPLOITATION IN THE STATE OR, IN ACCORDANCE WITH ~~§ 13-604~~ 13-605 OF THIS SUBTITLE, A PERSON ACTING ON THE ~~VULNERABLE~~

SUSCEPTIBLE ADULT'S OR OLDER ADULT'S BEHALF MAY BRING A CAUSE OF ACTION AGAINST A PERSON WHO HAS COMMITTED FINANCIAL EXPLOITATION AGAINST THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT TO RECOVER DAMAGES AND OBTAIN OTHER APPROPRIATE RELIEF AS SET FORTH UNDER THIS SUBTITLE.

~~13-604.~~ 13-605.

(A) AN ACTION MAY BE BROUGHT UNDER THIS SUBTITLE BY A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT OR BY A PERSON SERVING IN ONE OR MORE OF THE FOLLOWING REPRESENTATIVE CAPACITIES FOR A ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT:

(1) AN ATTORNEY IN FACT, GUARDIAN, TRUSTEE, OR OTHER FIDUCIARY ACTING ON BEHALF OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, OR A SUCCESSOR NAMED IN AN INSTRUMENT PROVIDING SUCH AUTHORIZATION;

(2) A PERSON AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, OR A SUCCESSOR NAMED IN AN INSTRUMENT PROVIDING THE AUTHORIZATION;

(3) A SPOUSE, PARENT, OR DESCENDENT OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT;

(4) AN INDIVIDUAL WHO WOULD QUALIFY AS THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S PRESUMPTIVE HEIR;

(5) A PERSON NAMED AS A BENEFICIARY TO RECEIVE ANY PROPERTY, BENEFIT, OR CONTRACTUAL RIGHT ON THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT'S OR OLDER ADULT'S DEATH, INCLUDING A PERSON WHO WOULD BE A BENEFICIARY BUT FOR THE FINANCIAL EXPLOITATION;

(6) THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR OF AN ESTATE OF A DECEASED ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT; OR

(7) A GOVERNMENT AGENCY THAT OTHERWISE HAS AUTHORITY AND JURISDICTION, INCLUDING:

(I) THE DIVISION OF CONSUMER PROTECTION IN THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) THE SECURITIES COMMISSIONER OF THE DIVISION OF SECURITIES IN THE OFFICE OF THE ATTORNEY GENERAL.

(B) A CAUSE OF ACTION AUTHORIZED UNDER THIS SUBTITLE:

(1) IS IN ADDITION TO AND CUMULATIVE WITH ANY OTHER CRIMINAL OR ADMINISTRATIVE CLAIMS, CAUSES OF ACTION AT LAW OR IN EQUITY, OR REMEDIES OTHERWISE AVAILABLE TO THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, INCLUDING AN ACTION UNDER § 13-204 OF THE COMMERCIAL LAW ARTICLE AND § 11-209 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE; AND

(2) SHALL SURVIVE THE DEATH OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT.

~~13-605. 13-606.~~

(A) (1) A PLAINTIFF IN AN ACTION BROUGHT UNDER THIS SUBTITLE IS ENTITLED TO RECOVER COMPENSATORY DAMAGES AND, AS APPROPRIATE AND SUBJECT TO SUBSECTION (B) OF THIS SECTION, PUNITIVE DAMAGES.

(2) THE DAMAGES AWARDED UNDER THIS SECTION ARE IN ADDITION TO AND CUMULATIVE WITH OTHER LAWFUL AND ADMINISTRATIVE DAMAGES AVAILABLE TO A PARTY.

(B) A PARTY WHO BRINGS AN ACTION UNDER THIS SUBTITLE TO RECOVER FOR INJURY OR LOSS AND IS AWARDED COMPENSATORY DAMAGES MAY ALSO SEEK AND THE COURT MAY AWARD AN AMOUNT NOT EXCEEDING THREE TIMES THE COMPENSATORY DAMAGES AND PREJUDGMENT INTEREST.

~~**(B) A PARTY WHO BRINGS AN ACTION UNDER THIS SUBTITLE TO RECOVER FOR INJURY OR LOSS AND IS AWARDED COMPENSATORY DAMAGES MAY ALSO SEEK AND THE COURT MAY AWARD AN AMOUNT NOT EXCEEDING THREE TIMES THE COMPENSATORY DAMAGES AND PREJUDGMENT INTEREST.**~~

~~(C)~~ **(C) (1) IN ADDITION TO MONETARY DAMAGES, A PARTY WHO BRINGS AN ACTION UNDER THIS SUBTITLE IS ALSO ENTITLED TO:**

(I) ANY OTHER APPROPRIATE RELIEF, INCLUDING EMERGENCY, PRELIMINARY OR PERMANENT INJUNCTION, RESCISSION, RESTITUTION, ACCOUNTING, UNJUST ENRICHMENT, DECLARATORY RELIEF, AND CONSTRUCTIVE TRUST; AND

(II) EMERGENCY OR INTERIM INJUNCTIVE RELIEF TO PRESERVE THE ASSETS OF THE ~~VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER

ADULT, WITHOUT THE REQUIREMENT OF A BOND IN THE DISCRETION OF THE COURT.

(2) THE REMEDIES PROVIDED IN THIS SUBSECTION ARE IN ADDITION TO AND CUMULATIVE WITH OTHER LEGAL, EQUITABLE, AND ADMINISTRATIVE REMEDIES AVAILABLE TO A PARTY.

~~(D)~~ ~~(C)~~ (D) THE COURT MAY AWARD REASONABLE ATTORNEY’S FEES AND EXPENSES TO ANY PERSON WHO BRINGS AN ACTION UNDER THIS SUBTITLE FOR INJURY OR LOSS AND IS AWARDED DAMAGES OR ANY OTHER REMEDY.

~~(E)~~ ~~(D)~~ (E) IF IT APPEARS TO THE SATISFACTION OF THE COURT, AT ANY TIME, THAT AN ACTION IS BROUGHT IN BAD FAITH OR IS OF A FRIVOLOUS NATURE, THE COURT MAY ORDER THE OFFENDING PARTY TO PAY TO THE OTHER PARTY REASONABLE ATTORNEY’S FEES AND EXPENSES.

~~13-606.~~ 13-607.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN ACTION UNDER THIS SUBTITLE SHALL BE COMMENCED WITHIN 5 YEARS AFTER THE ~~VULNERABLE ADULT OR THE VULNERABLE~~ SUSCEPTIBLE ADULT OR OLDER ADULT, OR THE SUSCEPTIBLE ADULT’S OR OLDER ADULT’S REPRESENTATIVE DISCOVERS OR, THROUGH THE EXERCISE OF REASONABLE DILIGENCE, SHOULD HAVE DISCOVERED THE FACTS CONSTITUTING FINANCIAL EXPLOITATION.

(B) (1) IF A CRIMINAL PROSECUTION IS COMMENCED THAT ARISES OUT OF THE SAME FACTS AS AN ACTION UNDER THIS SUBTITLE, THE TIME DURING WHICH THE PROSECUTION IS PENDING SHALL NOT BE COMPUTED AS PART OF THE PERIOD WITHIN WHICH THE ACTION UNDER THIS SUBTITLE MAY BE BROUGHT.

(2) AFTER THE CONCLUSION OF THE CRIMINAL PROSECUTION DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ACTION UNDER THIS SUBTITLE MAY BE BROUGHT WITHIN THE LATER OF:

(I) THE REMAINDER OF THE PERIOD SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION; OR

(II) 1 YEAR.

~~13-607.~~ 13-608.

(A) THIS SUBTITLE SHALL BE CONSTRUED AND APPLIED LIBERALLY TO PROMOTE ITS PURPOSE OF DETERRING AND REMEDYING THE FINANCIAL EXPLOITATION OF ~~VULNERABLE~~ SUSCEPTIBLE ADULTS AND OLDER ADULTS.

(B) THIS SUBTITLE IS NOT INTENDED TO ALTER OR AMEND THE BURDENS OF PROOF OR PRESUMPTIONS REQUIRED BY LAW.

~~13-608.~~ 13-609.

THIS SUBTITLE MAY BE CITED AS THE MARYLAND STATUTE AGAINST FINANCIAL EXPLOITATION (SAFE) ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

Approved by the Governor, May 18, 2021.