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March 31, 2021

To: The Honorable Luke Clippinger
Chair, Judiciary Committee

From: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

Re: Senate Bill 327 – Civil Actions – Financial Exploitation of Susceptible Adults and Older Adults (Maryland SAFE Act) (INFORMATION)

The Consumer Protection Division of the Office of the Attorney General initially had concerns that some of the provisions of Senate Bill 327, sponsored by Senator Waldstreicher, which would establish a private right of action for victims of financial exploitation of vulnerable adults, could have created confusion that would make actions to help vulnerable adults more difficult. The Division supports efforts to encourage private attorneys to assist senior citizens and vulnerable adults who have been victims of financial exploitation to recover the assets taken from them. However, the Division was concerned that Senate Bill 327 as introduced could have harmed the Division's ability to assist those same victims. However, the Division worked with Senator Waldstreicher and the proponents of Senate Bill 327 on amendments to the bill that generally addressed our concerns.

The General Assembly first gave the Consumer Protection Division authorization to bring cases on behalf of victims of financial exploitation by Chapter 114 (2016). Chapter 794 (2018) gave similar authority to the Securities Commissioner. Chapter 160, sponsored by Delegate Shetty and enacted last session expanded the Division's authority by making financial exploitation of the elderly or vulnerable adults a violation of the Consumer Protection Act. And the General Assembly passed Senate Bill 407 last session, which would have required the Governor to appropriate money each year for a Senior and Vulnerable Adult Asset Recovery Unit in the Attorney General's Office. That measure was vetoed by the Governor, but the General Assembly overrode the Governor's veto earlier this session,

Since the attorney overseeing the program was first hired in January 2017 through the end of calendar year 2020, the Office has been able to open more than 190 investigations and has settled or obtained judgments totaling more than \$1.6 million in 21 cases. Chapter 160, which became

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effective October 1, 2020, allows victims of financial exploitation as defined in § 8-801 of the Criminal Law Article to bring a private right of action under § 13-408 of the Consumer Protection Act and collect reasonable attorneys' fees. The Division believes that the treble damages remedy proposed in Senate Bill 327 would enhance the ability of victims to recover funds taken from them through financial exploitation by encouraging even more private attorneys to bring actions on their behalf.

The amendments that we worked on with the bill's proponents that were adopted by the Senate addressed the Division's concerns about differing definitions under existing law and in the SAFE Act, which could have led to conflicting court interpretations of who constitutes a vulnerable adult. Additionally, the amendments recognize that an action under the SAFE Act are in addition to the existing remedies available to victims of financial exploitation. The Division appreciates the efforts of the sponsor and the Estates and Trusts section of the Bar to address our concerns in order to provide additional remedies to help victims recover the assets wrongfully taken from them.

cc: The Honorable Jeff Waldstreicher
Members, Judiciary Committee