

March 3, 2015

TO: Members of the Aging Committee
FR: Connecticut Bankers Association
Contacts: Tom Mongellow, Fritz Conway
RE: Senate Bill 1005, AN ACT PROTECTING ELDERLY PERSONS FROM EXPLOITATION

The CBA has been diligently working with the Department of Aging and a task force including a broad group of key stakeholders, to create a public/private partnership for the voluntary reporting by banks of actual or suspected elderly fraud. Other states (including Massachusetts and Maine) have successfully developed similar programs. The Connecticut partnership has many important goals including financial education and safety for our senior citizens, and prevention of fraud or exploitation against them. To accomplish many of these goals, the partnership is developing a robust training and implementation strategy for financial institutions to enhance the voluntary reporting and resolution of suspected fraud against elder customers. As the Massachusetts Bank Reporting Project states: "Through voluntary participation in the Project, financial institutions and their employees have been and will continue to be integral in the successful detection and prevention of elder financial exploitation."

Elderly fraud is of serious concern to banks as they work to protect an elder customer's privacy and dignity, while at the same time trying to identify and protect them against possible fraudulent activities or perpetrators. Commonly, when an elder customer is asked about a suspected transaction they may get defensive and threaten to close the account. It's a very sensitive area that requires a great deal of training and tactfulness when engaging a senior in that type of conversation. Indeed, many times lawsuits are threatened and the bank is put in the middle of trying to serve the customers wishes, yet protect their monies from criminals. The "liability trap" in these situations can occur if the monies are inadvertently released in a fraudulent scheme or conversely, if it is not released due to suspected exploitation – then reported – but winds up being a legitimate transaction.

While the Bills provisions are well intended, we are concerned that the language creating the new mandatory reporting, significant fines and criminal prosecution for perceived non-compliance will create several unanticipated and negative consequences. This will likely cause over-reporting "to be safe" and not address the complexities of effectively identifying and reporting to protect elder customers. Also, and importantly, is the potential for lawsuits from elder customers, their family members or those with Power of Attorney designations who do not want the bank reporting any activities, or telling them what to do with their monies. These provisions will also highlight a lack of capacity to address the flood of new reporting to law enforcement

and those agencies that will receive those reports, as their resources are already stretched thin. The success of any anti elder fraud program hinges not just on reporting, but the ability of those key protective agencies to promptly investigate and resolve them.

We believe the approach that the Connecticut partnership is undertaking is more desirable and implementable than a harsh mandate that includes fines and criminal penalties for non-compliance.

Another major section of the bill proposes a Uniform Power of Attorney statutory framework. The CBA and other interested groups have been negotiating a similar bill in the Judiciary Committee, H.B. 6774, which just had a public hearing last Wednesday. That bill, which has been proposed by the Connecticut Bar Association, is a result of many interested groups providing input over the last two sessions. We would respectfully ask that the committee consider that bill as the POA vehicle for this legislative session.

We would be happy to work with the Committee to further the goal of protecting our senior citizens from exploitation and thank you for the opportunity to provide this testimony.