
OLR Bill Analysis

sSB 269

AN ACT CONCERNING PROTECTION OF THE ELDERLY FROM FINANCIAL EXPLOITATION AND REQUIRING PAPER STATEMENTS.

SUMMARY

This bill:

1. decreases the evidentiary standard used for determining when ownership of a joint account at a bank or credit union would not vest to the surviving account owners (§ 2);
2. creates a six-member working group to study and make recommendations for procedures at financial institutions to prevent the financial exploitation of the elderly (§ 1); and
3. explicitly requires financial institutions (i.e., banks and credit unions) to comply with certain federal and state law requirements on providing electronic or paper periodic statements (§ 3).

EFFECTIVE DATE: October 1, 2022, except the working group provision is effective July 1, 2022.

§ 2 — JOINT BANK ACCOUNT OWNERSHIP

By law, there is a rebuttable presumption that creating a joint account is evidence of intent by the person creating the account to have it vest, if he or she dies, to the other account holder(s). Current law requires someone challenging the survivor's right to account ownership to show clear and convincing contrary evidence or that there was fraud or undue influence. The bill replaces the clear and convincing evidentiary standard with preponderance of the evidence, which is a lower legal standard.

A “preponderance of the evidence” means that it is more likely than not that the facts asserted are true. It is the burden of proof in most civil trials. “Clear and convincing” means that it is highly probable or reasonably certain (Black’s Law Dictionary, 11th ed.).

§ 1 — WORKING GROUP ON PREVENTING ELDER EXPLOITATION

The bill creates a working group to analyze potential procedures for financial institutions and their employees to use when they believe a transaction or disbursement from an elderly person’s account may involve, ease, result in, or contribute to his or her financial exploitation. The working group must report its findings and recommendations to the Banking Committee by January 1, 2023. It terminates on the date it submits the report, or January 1, 2023, whichever is later.

The working group consists of the following members:

1. the Department of Banking commissioner, or his designee;
2. one representative each of the Connecticut Bankers’ Association and the Credit Union League of Connecticut (presumably, designated by the respective organizations);
3. the presidents of AARP Connecticut and the Connecticut Chapter of the National Academy of Elder Law Attorneys, or their designees; and
4. the Connecticut Bar Association’s elder law section chairperson, or his designee.

Under the bill, the House speaker and Senate president pro tempore must select the chairpersons from the working group’s members. The chairpersons must schedule the working group’s first meeting, which must be held by August 30, 2022. The Banking Committee’s administrative staff serves as the working group’s administrative staff.

§ 3 — FINANCIAL INSTITUTIONS PERIODIC STATEMENTS

The bill requires financial institutions to comply with certain provisions in three federal and state laws that apply to them regarding

periodic statements to consumers.

Specifically, the institutions must, as required by the federal Electronic Signatures in Global and National Commerce Act:

1. only provide periodic statements in electronic form to consumers after the consumers consent to receive them in that format;
2. allow consumers to withdraw their consents; and
3. provide paper copies of any electronic statements when requested by consumers (15 U.S.C. § 7001, et seq.).

They must also comply with the Connecticut Uniform Electronic Transactions Act (CGS § 1-266, et seq., which provides uniform rules for electronic commerce transactions) and the federal Truth in Savings Act (12 U.S.C. § 4301, et seq., which, among other things, requires uniform disclosure of interest rate and fee information) before providing consumers with electronic periodic statements.

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/15/2022)