

O.C.G.A. §§ 7-1-239.12
through 7-1-239.19

Financial Institution Transaction Hold Authority



Overview

Financial exploitation of disabled and elderly adults is a serious problem in Georgia and the country as a whole. Under Georgia state law effective July 1, 2026, financial institutions are expressly authorized to place a hold on certain transactions where financial abuse is suspected. Under the law, the financial institution can place a hold on the execution of a financial transaction if the financial institution has reasonable cause to suspect that a transaction may involve, facilitate, result in, or contribute to financial exploitation of a disabled or elderly adult. In addition, the law allows consumers to identify “trusted contacts” who may be contacted if the financial institution has reasonable cause to flag the transaction. Under the law, if a financial institution places a hold on a transaction, it must notify all parties on the account as well as the trusted contact, unless it reasonably believes such individuals are participants in the suspected financial abuse, and start an investigation. Further, the transaction hold may only be placed for fifteen days unless the results of the investigation are inconclusive but still indicate financial exploitation, in which case the hold may be extended an additional fifteen days. The law permits a financial institution to release the hold prior to the expiration of the timeframe if the investigation does not show financial exploitation. The law further states that, if a hold is in place, the payment order is not deemed placed until the hold is released. The law requires that financial institutions have policies and procedures in place related to financial exploitation and transaction holds and train employees on these policies and procedures. Finally, the law allows that if a financial institution acts in good faith and exercises reasonable care, the financial institution will not be liable for placing a transaction hold for suspected financial exploitation.

Introduction to Hold Provision: 7-1-239.12

(a) If a financial institution has reasonable cause to suspect that a transaction may involve, facilitate, result in, or contribute to financial exploitation, the financial institution may but is not required to place a hold on the execution of a financial transaction on an account:

(1) Of an eligible adult;

(2) On which the eligible adult is a beneficiary; or

(3) Of a person suspected of perpetrating the financial exploitation.

(b) A financial institution may place a hold on the execution of a financial transaction as described in subsection (a) of this Code section if the Department of Human Services or a law enforcement agency provides information to the financial institution demonstrating reasonable cause to suspect that a transaction may involve, facilitate, result in, or contribute to financial exploitation.

Definition of Financial Exploitation

7-1-4(20.1) 'Financial exploitation' means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult; or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, with the intent to:

(A) Obtain control over an eligible adult's money, assets, or property through deception, intimidation, or undue influence to deprive the eligible adult of the ownership, use, benefit, or possession of such money, assets, or property; or

(B) Divert the eligible adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of such money, assets, or property.

Definition of Disabled Adult, Elderly Adult, and Eligible Adult

7-1-4(17.1) 'Disabled adult' means a natural person 18 years of age or older who:

(A) Is mentally or physically incapacitated as defined in Code Section 16-5-100;

(B) Has Alzheimer's disease as defined in Code Section 16-5-100; or

(C) Has dementia as defined in Code Section 16-5-100.

7-1-4(17.2) 'Elderly adult' means a natural person 65 years of age or older.

7-1-4(17.3) 'Eligible adult' means a disabled adult or an elderly adult.

'Disabled Adult'

or

'Elderly Adult'

=

'Eligible Adult'

Actions Required When Placing a Transaction Hold

7-1-239.13

A financial institution that places a hold on a transaction pursuant to Code Section 7-1-239.12 shall:

- (1) Notify in writing all parties authorized to transact business on the account and any trusted contact on the account no later than three business days after the date the hold is placed, unless the financial institution reasonably believes that these persons have engaged in, are engaging in, have attempted to engage in, or will attempt to engage in the suspected financial exploitation of the eligible adult. Such notice may be provided electronically and shall include any reason for a delay; and
- (2) Initiate a review of the facts and circumstances that caused the financial institution to suspect financial exploitation.

Department Note: The hold is not contemplated for the entire account balance. The law covers specific transactions within the account. The law does not address account closures.

Definition of Trusted Contact

7-1-41(41)(A) 'Trusted contact' means a natural person 18 years of age or older who the account owner has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about either the account or the account owner to:

(i) Address possible financial exploitation or to confirm the specifics of the account owner's current contact information or health status;

(ii) Determine the identity of any conservator, executor, trustee, or individual or entity granted power of attorney over the account holder; or

(iii) Address any other concern reasonably related to the administration of the account.

(B) Such term may include a joint account owner or an individual or entity who has been granted a power of attorney.

Department Note: A Trusted contact does not become a joint account owner/holder/co-signer on the account; however, a joint owner can be a trusted contact. Unless the Trusted contact is a joint account owner on the account, they cannot originate/conduct transactions on the account.

Designation of Trusted Contact 7-1-239.11

- (a) A financial institution may permit any customer or member of the financial institution who is an eligible adult to designate, upon each account owned wholly or partially by such eligible adult, at least one trusted contact in addition to a co-owner, beneficiary, or fiduciary on the account.
- (b) For each such designation, the eligible adult shall provide the trusted contact's name, mailing address, and any other contact information that the financial institution may use to contact the trusted contact.
- (c) A financial institution may permit a customer or member to designate such trusted contact prior to the customer or member becoming an eligible adult but may not contact such trusted contact until the customer or member becomes an eligible adult.
- (d) The financial institution shall maintain such trusted contact in a record associated with each account to which the designation applies.
- (e) A financial institution may establish reasonable procedures to confirm the identity of the trusted contact.
- (f) A financial institution shall not require a person designated as a trusted contact to consent as a precondition of being recorded as a trusted contact on any account.
- (g) Absent a requirement in the account agreement to the contrary, when contacting a trusted contact pursuant to this part, the financial institution may choose to only disclose the fact that financial exploitation is suspected.

Allowable Transaction Hold Period: 7-1-239.14

- (a) Any hold placed on any account pursuant to this part expires on the fifteenth business day after the date the hold was placed.
- (b) The financial institution may extend the hold for up to an additional 15 business days if the financial institution's review of the available facts or circumstances continues to support the reasonable belief that a transaction may involve, facilitate, result in, or contribute to financial exploitation.
- (c) The length of such hold may be shortened or extended at any time by any court of competent jurisdiction.
- (d) Nothing in this Code section prevents a financial institution from terminating a hold after communication with parties authorized to transact business on the account or trusted contacts or after the review of available facts and circumstances.

Department Note: Business day is Monday through Friday except for holidays.

Requirements to use Transaction Holds: 7-1-239.15

Before placing a hold in accordance with this part, a financial institution shall:

- (1) Develop training policies or programs reasonably designed to educate employees who perform or approve transactions on issues pertaining to financial exploitation;
- (2) Conduct such training policies or programs for employees and maintain a written record of all such training; and
- (3) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally.

Development Training Policies or Programs

7-1-239.15(1) Develop training policies or programs reasonably designed to educate employees who perform or approve transactions on issues pertaining to financial exploitation:

Financial institutions should tailor policies to the scope, depth, and complexity of specific operations.

In general, the Policy may include:

- Designating a financial exploitation point of contact;
- Establishing clear guidance regarding escalation procedures;
- Establishing a requirement for transaction hold training and the frequency of such training;
- Maintaining a list of law enforcement/adult protective service contact personnel to assist when financial exploitation is presumed specific to geographic areas;
- Maintaining records in accordance with the law; and
- Requiring that, when the financial institution suspects instances of elder financial exploitation, management must contact (1) Adult Protective Services, (2) local law enforcement, and (3) FinCEN through SAR filings, as applicable.

Conduct Training Programs

7-1-239.15(2) Conduct such training policies or programs for employees and maintain a written record of all such training:

Training should be conducted annually (or more frequently if warranted by changes in policies, procedures, laws, or regulations) with all pertinent employees in the financial institution. A written record of all training conducted should be maintained by the financial institution. Training requirements should be included for employees that have contact with eligible adults; those who review the financial documents, records, or transactions of an eligible adult in connection with providing financial services to such eligible adult; newly hired employees in applicable positions; and members of the board of directors. Training shall correlate and be appropriate to the job responsibilities of the employee.

Conduct Training Programs

7-1-239.15(2) Conduct such training policies or programs for employees and maintain a written record of all such training:

Training instruction could include topics such as:

- Who is considered an eligible adult under the law;
- What is financial exploitation;
- How to identify suspected financial exploitation of an elderly or vulnerable adult, including common signs and red flags, both behavioral and financial;
- How, and to whom, to report the suspected financial exploitation to comply with the financial institution's policies and procedures;
- Detailing facts, information, and documentation for internal procedures and reporting requirements;
- Designating trusted contacts;
- FinCEN requirements, including the filing of Suspicious Activity Reports (SARs) and Currency Transaction Reports (CTRs);
- Identification of the local department of social services and law enforcement of the county/city where the eligible adult resides or where suspected financial exploitation occurs;
- Financial exploitation prevention and timely action;
- Importance of protecting the privacy and respecting the integrity of each customer;
- Identifying common types and signs of covered financial exploitation; and
- Relevant federal advisory opinions or guidance on elder financial exploitation.

Develop Written Procedures

7-1-239.15(3) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally:

The financial institution shall develop a plan to ensure enforcement of written procedures. Written procedures should include documentation of:

- The data required by 7-1-239.16:
 - Account holder's information;
 - Date the hold was first placed;
 - Facts and circumstances that caused the employee to suspect financial exploitation; and
 - Resolution of the hold.
- The date that all parties authorized to transact business on the account and any trusted contact on the account (as applicable) were provided notification; the date the hold was extended (if applicable); the date (if applicable) when, after examination or investigation of available facts, covered financial exploitation of a customer was no longer suspected; and final resolution date of the hold.
- Correspondence provided to all trusted contacts and all other account holders, unless the contact or other account holders are suspected of financial exploitation.
- The facts and circumstances discovered throughout the investigation with corresponding dates.

Record Requirements: 7-1-239.16

(a) A financial institution shall create and maintain a record of all holds placed pursuant to this part.

(b) For each hold, such records shall include the:

(1) Account holder's information;

(2) Date the hold was first placed;

(3) Facts and circumstances that caused the employee to suspect financial exploitation; and

(4) Resolution of the hold.

Department Note: There is no requirement that the parties agree with the financial institution's investigation results and conclusion. The financial institution may decline the transaction if results are conclusive for financial exploitation.

Transaction Timing Requirements: 7-1-239.17

- (a) Absent a reasonable belief of financial exploitation, this part does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account.
- (b) When a financial institution exercises its discretion to place a hold on a transaction pursuant to this part, the payment order for the transaction shall not be deemed as received until the financial institution has removed the hold and the transaction has been submitted for processing.

Immunity: 7-1-239.18

- (a) A financial institution acting in good faith and exercising reasonable care to comply with this part is immune from any administrative, criminal, or civil liability that might otherwise arise from the financial institution's action, inaction, delay in a disbursement, hold, or other transaction in accordance with this part. This immunity from liability extends to the officers, directors, and employees of the financial institution.
- (b) Absent the financial institution's employees having actual knowledge of financial exploitation and acting with malicious purpose, the financial institution and its officers, directors, and employees are immune from administrative, criminal, and civil liability for failure to exercise its discretion to place a hold under this part.
- (c) This Code section does not alter, extend, supersede, or diminish any immunity otherwise granted to financial institutions.

No New Obligations: 7-1-239.19

This part does not create new rights or impose new obligations or new duties on a financial institution under other applicable law.

Additional Resources

- O.C.G.A. §§ 7-1-239.12 – .19
<https://advance.lexis.com/container?config=00JAAzZDgzNzU2ZC05MDA0LTRmMDItYjkzMS0xOGY3MjE3OWNlODIKAFBvZENhdGFsb2fcIFfJnJ2IC8XZi1AYM4Ne&crd=201b1720-1ebe-46e4-9504-f2dd7251f381&prid=32ba624a-aa70-40c3-ba64-d4997b64b7ba>
- American Bankers Association – State 'Hold' Laws and Elder Financial Exploitation Prevention : A Survey Report
<https://www.aba.com/news-research/analysis-guides/state-hold-laws-and-elder-financial-exploitation-survey-report>
- FinCEN Advisory on Elder Financial Exploitation
<https://www.fincen.gov/system/files/advisory/2022-06-15/FinCEN%20Advisory%20Elder%20Financial%20Exploitation%20FINAL%20508.pdf>