



GOV. MSG. NO. 1154

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 16, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 16, 2021, the following bill was signed into law:

HB940 HD2 SD1

RELATING TO SECURITIES
ACT 54(21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

- 1 (A) Obtain control through deception, intimidation,
2 or undue influence over the elder's or vulnerable
3 adult's money, assets, or property to deprive the
4 elder or vulnerable adult of the ownership, use,
5 benefit, or possession of the elder's or
6 vulnerable adult's money, assets, or property; or
- 7 (B) Convert money, assets, or property of the elder
8 or vulnerable adult to deprive the elder or
9 vulnerable adult of the ownership, use, benefit,
10 or possession of the elder's or vulnerable
11 adult's money, assets, or property.

12 "Qualified person" means any agent, broker-dealer,
13 investment adviser representative, investment adviser, or person
14 who serves in a supervisory or compliance capacity for a broker-
15 dealer or an investment adviser.

16 "Reasonably associated individual" means any person known
17 to the qualified person to be reasonably associated with the
18 elder, vulnerable adult, or account.

19 "Vulnerable adult" means a person eighteen years of age or
20 older who, because of mental, developmental, or physical
21 impairment, is unable to:



- 1 (1) Communicate or make responsible decisions to manage
- 2 the person's own care or resources;
- 3 (2) Carry out or arrange for essential activities of daily
- 4 living; or
- 5 (3) Protect oneself from abuse.

6 **§485A-B Governmental disclosures.** If a qualified person
7 reasonably believes that financial exploitation of an elder or a
8 vulnerable adult may have occurred, may have been attempted, or
9 is being attempted, the qualified person shall promptly notify
10 the commissioner.

11 **§485A-C Immunity for governmental disclosures.** A
12 qualified person who, in good faith and exercising reasonable
13 care, makes a disclosure of information pursuant to
14 section 485A-B shall be immune from administrative or civil
15 liability that might otherwise arise from the disclosure or for
16 any failure to notify the commissioner of the disclosure.

17 **§485A-D Third-party disclosures.** If a qualified person
18 reasonably believes that financial exploitation of an elder or a
19 vulnerable adult may have occurred, may have been attempted, or
20 is being attempted, a qualified person may notify a reasonably
21 associated individual or any third party previously designated



1 by the elder or vulnerable adult. Disclosure shall not be made
2 to any reasonably associated individual or previously designated
3 third party who is suspected of financial exploitation or other
4 abuse of the elder or vulnerable adult.

5 **§485A-E Immunity for third-party disclosures.** A qualified
6 person who, in good faith and exercising reasonable care, makes
7 a disclosure of information pursuant to section 485A-D shall be
8 immune from any administrative or civil liability that might
9 otherwise arise from the disclosure.

10 **§485A-F Delaying disbursements or transactions.** (a) A
11 qualified person may delay a disbursement from, or a transaction
12 in connection with, an account of an elder or a vulnerable
13 adult, or an account on which an elder or a vulnerable adult is
14 a beneficiary, if:

15 (1) The qualified person reasonably believes that the
16 requested disbursement or transaction may result in
17 financial exploitation of the elder or vulnerable
18 adult after initiating an internal review of the
19 requested disbursement or transaction and the
20 suspected financial exploitation; and

21 (2) The qualified person:



- 1 (A) Immediately, but in no event more than two
2 business days after the requested disbursement or
3 transaction is delayed, provides written
4 notification of the delay and the reason for the
5 delay to all parties authorized to transact
6 business on the account, unless any party is
7 reasonably believed to have engaged in suspected
8 or attempted financial exploitation of the elder
9 or vulnerable adult;
- 10 (B) Immediately, but in no event more than two
11 business days after the requested disbursement or
12 transaction is delayed, notifies the
13 commissioner; and
- 14 (C) Continues its internal review of the suspected or
15 attempted financial exploitation of the elder or
16 vulnerable adult, as necessary, and provides
17 status updates to the commissioner upon request.
- 18 (b) Any delay of a requested disbursement or transaction
19 as authorized by this section shall expire upon the sooner of:
- 20 (1) A determination by the qualified person that the
21 requested disbursement or transaction will not result



1 in financial exploitation of the elder or vulnerable
2 adult; or
3 (2) Fifteen business days after the date on which the
4 qualified person first delayed the requested
5 disbursement or transaction, unless the commissioner
6 requests that the qualified person extend the delay,
7 in which case the delay shall expire no later than
8 twenty-five business days after the date on which the
9 qualified person first delayed the requested
10 disbursement or transaction, unless sooner terminated
11 or further extended by the commissioner or by an order
12 of a court of competent jurisdiction.

13 (c) A court of competent jurisdiction may enter an order
14 extending the delay of the requested disbursement or
15 transaction, or may order other protective relief based on the
16 petition of the commissioner, the qualified person who initiated
17 the delay under this section, or other interested party.

18 **§485A-G Immunity for delaying disbursements or**
19 **transactions.** A qualified person who, in good faith and
20 exercising reasonable care, complies with section 485A-F shall
21 be immune from any administrative or civil liability that might



1 otherwise arise from a delay of a requested disbursement or
2 transaction in accordance with that section.

3 **§485A-H Records.** A qualified person shall provide access
4 to or copies of records that are relevant to the suspected or
5 attempted financial exploitation of an elder or a vulnerable
6 adult to the commissioner or law enforcement, either as part of
7 a referral to the commissioner or law enforcement, or upon
8 request of the commissioner or law enforcement pursuant to an
9 investigation. The records may include historical records as
10 well as records relating to the most recent transaction or
11 transactions that may comprise financial exploitation of an
12 elder or a vulnerable adult. All records made available under
13 this section shall be exempt from disclosure under chapter 92F.

14 Nothing in this section shall limit or otherwise impede the
15 authority of the commissioner to access or examine the books and
16 records of a qualified person as otherwise provided by law.

17 **§485A-I Multiple duties to report.** Compliance with this
18 part shall not discharge the duty to report suspected abuse
19 under any other law."

20 SECTION 2. In codifying the new sections added by
21 section 1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 16 day of JUN , 2021



GOVERNOR OF THE STATE OF HAWAII



HB No. 940, HD 2, SD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 22, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives





Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 13, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate