



January 25, 2024

The Honorable Nick Hoheisel, Chair
House Committee on
Financial Institutions and Pensions
House of Representatives
Kansas State Capitol
300 S.W. 10th St.
Topeka, Kansas 66612

Re: Kansas House Bill No. 2562

Dear Chair Hoheisel:

On behalf of the North American Securities Administrators Association (“NASAA”) and at the request of Mr. Dan Klucas, the Kansas Securities Commissioner,¹ I write to express support for Kansas House Bill No. 2562. If enacted, this legislation would benefit Kansas investors and businesses in important ways.

I. NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation

About a decade ago, the NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation (“Model Act”) originated as an initiative of NASAA’s committee that is comprised of state and provincial securities regulators who are focused on developing policy solutions and tools that support older and sometimes vulnerable investors. The NASAA membership voted in January 2016 to approve the Model Act following over a year of work by NASAA, including extensive public and internal comment on the proposal.

The Model Act has been a great success and an important tool for industry and regulators alike. As of January 2024, 38 jurisdictions have state laws that informed, or are inspired by, the Model Act. Neighboring states of Kansas (Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Wyoming) all have state laws with provisions similar to those included in the Model Act.²

¹ Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA’s membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico, the U.S. Virgin Islands, and Guam. NASAA is the voice of securities agencies responsible for grassroots investor protection and responsible capital formation. Kansas occupies a unique position in the history of securities regulation being the first state to enact such laws in 1911.

² To view a list of jurisdictions that have adopted proposals, see <https://www.nasaa.org/industry-resources/senior-issues/model-act-to-protect-vulnerable-adults-from-financial-exploitation/>.

In short, the Model Act gives industry participants and state regulators new tools to help detect and prevent financial exploitation of older investors and those individuals who may be classified as vulnerable adults under existing state law. The Model Act mandates reporting to a state securities regulator and a state adult protective services agency when certain financial services professionals have a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred. The Model Act also authorizes disclosure to third parties only in instances where an eligible adult previously has designated a third party to whom disclosure may be made. Finally, the Model Act directs that disclosures may not be made to the third party if the financial professional suspects the third party of financial exploitation.

II. Kansas House Bill No. 2562

H.B. 2562 would amend the Kansas Securities Act to incorporate the Model Act's five core features that, when taken together, clarify and more closely align the interests and responsibilities of financial professionals, regulators, and law enforcement agencies regarding the reporting and preventing of senior financial exploitation. These features of the Model Act, as well as the citations to related language in H.B. No. 2562, are as follows:

1. A mandatory reporting requirement applicable to qualified individuals of broker-dealers and investment advisers (New Section 3);
2. Notification to certain third parties of potential financial exploitation with advance consent of the investor (New Section 5);
3. The authority to temporarily delay the disbursement of funds (New Section 7);
4. Immunity from civil and administrative liability for reporting, notifications, and delays (New Sections 4, 6, and 8); and
5. Mandatory record-sharing in cases of exploitation with law enforcement and state adult protective services agencies (New Section 9).

Protecting investors, especially those who have worked to build secure financial futures, has been NASAA's mission for over a century. We are, therefore, happy to support Kansas House Bill 2562. We appreciate the opportunity to comment on the bill. Should you have any questions, please do not hesitate to contact me or Kristen Hutchens, NASAA's Director of Policy and Government Affairs, and Policy Counsel, at khutchens@nasaa.org.

Sincerely,



Claire McHenry
NASAA President and
Deputy Director
Nebraska Bureau of Securities

Copy: Hon. Dan Klucas, Commissioner