**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4669**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Neilson, Harvin, Jefferson, Brantley, McLeod, Williams, Whipper, R.L. Brown, Clyburn, Hodges and J.H. Neal

Document Path: l:\council\bills\nbd\11547ac10.docx

Companion/Similar bill(s): 1334

Introduced in the House on March 3, 2010

Currently residing in the House Committee on **Judiciary**

Summary: Financial abuse

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑2

3/3/2010 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑2

**VERSIONS OF THIS BILL**

[3/3/2010](file:///p:\pprever\2009-10\4669_20100303.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 35, TITLE 43 SO AS TO ESTABLISH FINANCIAL ABUSE OF A PERSON SIXTY‑FIVE YEARS OF AGE OR OLDER OR A VULNERABLE ADULT OR A HANDICAPPED PERSON AS A CIVIL CAUSE OF ACTION; TO DEFINE FINANCIAL ABUSE GENERALLY AS TAKING REAL OR PERSONAL PROPERTY FROM SUCH A PERSON FOR A WRONGFUL USE, WITH INTENT TO DEFRAUD, OR BY UNDUE INFLUENCE OR WHEN SUCH A PERSON LACKS CAPACITY; TO SPECIFY CONDUCT THAT IS DEEMED TO BE FINANCIAL ABUSE; TO AUTHORIZE THE AWARDING OF ATTORNEY’S FEES AND COSTS; AND TO ESTABLISH A FOUR‑YEAR STATUTE OF LIMITATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 35, Title 43 of the 1976 Code is amended by adding:

“Article 7

Financial Abuse

Section 43‑35‑710. (A) ‘Financial abuse’ of a person who is over sixty‑five years of age or a vulnerable adult, as defined in Section 43‑35‑10, or handicapped person, as defined in Section 2‑7‑35 occurs when a person or entity:

(1) takes, secretes, appropriates, obtains, or retains real or personal property of a person who is sixty‑five years of age or older or a vulnerable adult or handicapped for a wrongful use or with intent to defraud or by undue influence, or any combination of these;

(2) assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of a person who is sixty‑five years of age or older or a vulnerable adult or handicapped for a wrongful use or with intent to defraud or by undue influence, or by any combination of these; or

(3) takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of a person who is sixty‑five years of age or older or a vulnerable adult or handicapped, when the person sixty‑five years of age or older or the vulnerable adult or handicapped person lacks capacity.

(B) A person or entity is deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the person sixty‑five years of age or older or to the vulnerable adult or to the handicapped person.

(C) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when a person sixty‑five years of age or older or a vulnerable adult or a handicapped person is deprived of any property right by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by an attorney‑in‑fact, conservator, trustee, or other representative of the person sixty‑five years of age or older or the vulnerable adult or the handicapped person.

(D) If it is proven by a preponderance of the evidence that a defendant is liable for financial abuse, in addition to compensatory damages and all other remedies otherwise provided by law, the court shall award to the plaintiff reasonable attorney’s fees and costs. The term ‘costs’ includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(E) An action for damages pursuant to this section for financial abuse of a person sixty‑five years of age or older or a vulnerable adult or a handicapped person must be commenced within four years after the plaintiff discovers, or, through the exercise of reasonable diligence, should have discovered, the facts constituting the financial abuse.”

SECTION 2. This act takes effect upon approval by the Governor.

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