



General Assembly

Substitute Bill No. 183

February Session, 2022



AN ACT CONCERNING FAIR LENDING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-736 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2023*):

3 As used in sections 36a-735 to 36a-744, inclusive, unless the context
4 otherwise requires:

5 (1) "Applicant" means any person who applies for a home purchase
6 loan, home improvement loan or other mortgage loan as defined in
7 sections 36a-735 to 36a-744, inclusive, whether or not the loan is granted;

8 (2) "Federal Home Mortgage Disclosure Act" means the Home
9 Mortgage Disclosure Act of 1975 (12 USC Section 2801 et seq.), as
10 amended from time to time, and any regulations promulgated by the
11 Federal Reserve Board or the Bureau of Consumer Financial Protection
12 pursuant to that act, except, for purposes of sections 36a-735 to 36a-744,
13 inclusive, the supervisory agency shall be the commissioner;

14 (3) "Financial institution" means any Connecticut bank or
15 Connecticut credit union [which] that makes home purchase loans or
16 home improvement loans or any for profit mortgage lending institution
17 other than a Connecticut bank or Connecticut credit union, [whose

18 home purchase loan originations equaled or exceeded ten per cent of its
19 loan origination volume, measured in dollars,] that originated twenty-
20 five or more closed-end mortgage loans or one hundred or more open-
21 end mortgage loans in the preceding two calendar [year] years, if such
22 mortgage lending institution is licensed under sections 36a-485 to 36a-
23 498a, inclusive;

24 (4) "Home improvement loan" has the same meaning as provided in
25 the federal Home Mortgage Disclosure Act;

26 (5) "Home purchase loan" has the same meaning as provided in the
27 federal Home Mortgage Disclosure Act; [and]

28 (6) "Home loan lender" means any person engaged in the business of
29 making home purchase loans, home improvement loans or mortgage
30 loans in this state; and

31 ~~[(6)]~~ (7) "Mortgage loan" means a loan which is secured by residential
32 real property.

33 Sec. 2. Subsection (a) of section 36a-737 of the general statutes is
34 repealed and the following is substituted in lieu thereof (*Effective January*
35 *1, 2023*):

36 (a) (1) No financial institution and no federal bank or federal credit
37 union shall discriminate, on a basis that is arbitrary or unsupported by
38 a reasonable analysis of the lending risks associated with the applicant
39 for a given loan or the condition of the property to secure it, in the
40 granting, withholding, extending, modifying, renewing or in the fixing
41 of the rates, terms, conditions or provisions of any home purchase loan,
42 home improvement loan or other mortgage loan on one-to-four-family
43 owner-occupied residential real property, solely because such property
44 is located in a low-income or moderate-income neighborhood or
45 geographical area, provided it shall not be a violation of this section if
46 the home purchase loan, home improvement loan or other mortgage
47 loan is made pursuant to a specific public or private program, the
48 purpose of which is to increase the availability of home purchase loans,

49 home improvement loans or other mortgage loans within a low-income
50 or moderate-income neighborhood or geographical area in which such
51 investment capital has generally been denied.

52 (2) No financial institution and no federal bank or credit union shall
53 discriminate against any person in violation of the federal Fair Housing
54 Act, 42 USC 3601 et seq., as amended from time to time, the federal
55 Equal Credit Opportunity Act, 15 USC 1691 et seq., as amended from
56 time to time, sections 46a-64c to 46a-67, inclusive, section 46a-81e or 46a-
57 81f or any regulation adopted pursuant to such state or federal laws.

58 (3) No home loan lender shall (A) on the basis of a person's race,
59 creed, color, national origin, ancestry, sex, gender identity or expression,
60 marital status, age, lawful source of income, familial status or status as
61 a veteran (i) fail or refuse to provide to any person information
62 regarding the availability of a home purchase loan, home improvement
63 loan or mortgage loan, or the application requirements, procedures or
64 standards for review and approval of any such loan, or (ii) provide such
65 person with information that is inaccurate or different from the
66 information provided to any other prospective applicant, or (B)
67 discourage any person from purchasing a dwelling, or refuse to issue to
68 any person a home purchase loan, home improvement loan or mortgage
69 loan for a dwelling, solely on the basis of such person's race, creed, color,
70 national origin, ancestry, sex, gender identity or expression, marital
71 status, age, lawful source of income, familial status or status as a veteran
72 or on the basis of the race, creed, color, national origin, ancestry, sex,
73 gender identity or expression, marital status, age, lawful source of
74 income, familial status or status as a veteran of any other person
75 residing in the geographic area in which the dwelling is situated. For
76 purposes of this subdivision, "dwelling" has the same meaning as
77 provided in section 46a-64b and "geographic area" means a
78 municipality, neighborhood, census tract or other geographic
79 subdivision, including, but not limited to, an apartment or
80 condominium complex.

81 Sec. 3. Section 36a-740 of the general statutes is repealed and the

82 following is substituted in lieu thereof (*Effective January 1, 2023*):

83 Any applicant or other person who has been discriminated against as
84 a result of a violation of section 36a-737, as amended by this act, and the
85 regulations adopted pursuant to sections 36a-735 to 36a-744, inclusive,
86 may bring an action in a court of competent jurisdiction. Upon finding
87 that a financial institution is in violation of sections 36a-735 to 36a-744,
88 inclusive, the court may award damages, reasonable attorneys' fees and
89 court costs. No class action shall be permitted pursuant to the provisions
90 of this section. Any applicant or other person alleging a violation under
91 this section shall do so in the applicant's or other person's own
92 individual complaint and each case resulting from such complaints shall
93 be heard on its own merits unless consolidation of such cases is agreed
94 to by each defendant affected thereby.

95 Sec. 4. Section 36a-741 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective January 1, 2023*):

97 (a) If the commissioner finds that a financial institution or home loan
98 lender is violating the provisions of sections 36a-735 to 36a-744,
99 inclusive, the commissioner shall order the institution to cease and
100 desist from such practices in accordance with section 36a-52.

101 (b) Whenever it appears to the commissioner that any financial
102 institution or home loan lender has violated, is violating or is about to
103 violate any provision of sections 36a-735 to 36a-744, inclusive, or any
104 regulation adopted under said sections, the commissioner may take
105 action against such financial institution in accordance with section 36a-
106 50.

107 Sec. 5. Section 36a-743 of the general statutes is repealed and the
108 following is substituted in lieu thereof (*Effective January 1, 2023*):

109 (a) The commissioner shall analyze the practices and actions of the
110 financial institutions in the home financing area in relationship to its
111 customers and to the housing needs and conditions of the state.

112 (b) Not later than July 1, 2024, the commissioner shall implement fair
113 lending examination procedures to assess the compliance of a financial
114 institution with the provisions of sections 36a-735 to 36a-744, inclusive,
115 the Fair Housing Act, 42 USC 3601 et seq., as amended from time to time,
116 and the Equal Credit Opportunity Act, 15 USC 1691 et seq., as amended
117 from time to time, and any regulation adopted thereunder. Such
118 procedures shall, to the maximum extent possible, be consistent with the
119 interagency fair lending examination procedures adopted by the
120 Consumer Financial Protection Bureau, the Federal Reserve Board, the
121 Federal Deposit Insurance Corporation, the National Credit Union
122 Administration and the Office of the Comptroller of the Currency. The
123 commissioner may conduct fair lending examinations of financial
124 institutions, as the commissioner deems appropriate.

125 (c) Without limiting any other power of the commissioner or any
126 other action authorized by law, the commissioner may conduct an
127 investigation, in accordance with the provisions of section 36a-17, of any
128 financial institution if the commissioner (1) receives a complaint from
129 any person of discriminatory lending practices by the financial
130 institution, (2) finds a pattern of discriminatory lending practices in a
131 fair lending examination conducted pursuant to subsection (b) of this
132 section, or (3) finds, while conducting an assessment of the financial
133 institution pursuant to section 36a-32 or 36a-37a, as amended by this act,
134 that the financial institution is not satisfying its affirmative obligation to
135 meet the credit needs of its local communities, including low and
136 moderate-income neighborhoods pursuant to section 36a-30, as
137 amended by this act, or 36a-37.

138 Sec. 6. Section 36a-30 of the general statutes is repealed and the
139 following is substituted in lieu thereof (*Effective January 1, 2023*):

140 (a) As used in [sections 36a-30] this section and sections 36a-31 to 36a-
141 33, inclusive, unless the context otherwise requires:

142 (1) "Bank" means any bank or out-of-state bank that maintains in this
143 state a branch as defined in section 36a-410. "Bank" does not include

144 special purpose banks that do not perform commercial or retail banking
145 services in which credit is granted to the public in the ordinary course
146 of business, other than as an incident to their specialized operations,
147 including, but not limited to, banker's banks and banks that engage only
148 in one or more of the following activities: Providing cash management
149 controlled disbursement services or serving as correspondent banks,
150 trust companies or clearing agents.

151 (2) "Federal CRA" means (A) the federal Community Reinvestment
152 Act of 1977, 12 USC Section 2901 et seq., as from time to time amended,
153 and (B) the regulations implementing said act adopted by the federal
154 financial supervisory agencies as set forth in 12 CFR Part 25, 12 CFR Part
155 228, 12 CFR Part 345 and 12 CFR Part 563e, as from time to time
156 amended, and as applicable to the specific type of bank.

157 (3) "Federal financial supervisory agency" means the Office of the
158 Comptroller of the Currency, the Board of Governors of the Federal
159 Reserve System, the Federal Deposit Insurance Corporation, the Office
160 of Thrift Supervision and any successor to any of the foregoing agencies,
161 as applicable to the specific type of bank.

162 (b) The commissioner shall assess the record of each bank in
163 satisfying its continuing and affirmative obligations to help meet the
164 credit needs of its local communities, including low and moderate-
165 income neighborhoods, consistent with the safe and sound operation of
166 such banks, and shall provide for the consideration of such records in
167 connection with any application listed in subsection (c) of section 36a-
168 32.

169 (c) Each bank shall, in accordance with the provisions of federal CRA
170 and without excluding low and moderate-income neighborhoods,
171 delineate the local community or communities that comprise its entire
172 community within this state or delineate one or more assessment areas,
173 as applicable, within which the commissioner shall evaluate the bank's
174 record of helping to meet the credit needs of its entire community in this
175 state. The commissioner shall review the delineation for compliance

176 with federal CRA and this subsection in connection with an examination
177 of the bank under section 36a-17.

178 (d) Each bank shall collect and report loan information in accordance
179 with the applicable requirements of federal CRA. Each bank shall file
180 with the commissioner a copy of each CRA disclosure statement
181 prepared for such bank by a federal financial supervisory agency under
182 federal CRA within thirty business days after receiving the statement.

183 (e) Copies of the public section of the most recent community
184 reinvestment performance evaluation prepared by the commissioner
185 pursuant to subsection (b) of section 36a-32 shall be provided to the
186 public upon request. A bank may charge a reasonable fee not to exceed
187 the cost of copying and mailing, if applicable.

188 (f) Each bank shall maintain a public file in accordance with federal
189 CRA. Each bank shall place a copy of the public section of the bank's
190 most recent community reinvestment performance evaluation prepared
191 by the commissioner pursuant to subsection (b) of section 36a-32 in the
192 public file within thirty business days after its receipt from the
193 commissioner. The bank may also include in the public file any response
194 to such performance evaluation that the bank wishes to make. The bank
195 shall make a copy of the public section of such performance evaluation
196 available to the public for inspection upon request and at no cost at the
197 bank's main office and at each of its branches in this state. Any bank that
198 received a less than satisfactory rating during its most recent
199 examination under section 36a-32 shall include in its public file a
200 description of its current efforts to improve its performance in helping
201 to meet the credit needs of its entire community. The bank shall update
202 the description quarterly.

203 (g) The commissioner (1) may assess a bank's record of helping to
204 meet the credit needs of its assessment areas under a strategic plan
205 pursuant to federal CRA, provided [(1)] (A) the strategic plan is filed
206 with the commissioner concurrently with its submission by the bank to
207 a federal financial supervisory agency for approval under federal CRA,

208 and [(2)] (B) the strategic plan is approved by the commissioner, and (2)
209 on and after January 1, 2024, shall assess each bank's record of making
210 residential loan products available in, and advertising such products to,
211 its assessment areas, including low and moderate-income
212 neighborhoods and census tracts where the population of racial
213 minorities is greater than fifty per cent, in a manner that is consistent
214 with the safe and sound operation of such bank. The terms of a
215 residential loan product made available by a bank in any of its
216 assessment areas shall not be based on the racial composition of the
217 assessment area.

218 Sec. 7. Section 36a-37a of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective January 1, 2023*):

220 (a) Each community credit union shall satisfy its continuing and
221 affirmative obligation to help meet the credit needs of its community,
222 including low-income and moderate-income neighborhoods, consistent
223 with the safe and sound operation of such community credit union.

224 (b) (1) Not later than six months following July 1, 2001, each
225 community credit union shall delineate one or more assessment areas
226 within which the commissioner shall evaluate the community credit
227 union's community reinvestment performance in this state and shall file
228 such delineations with the commissioner. An assessment area shall
229 consist only of whole geographies, and may not [(1)] (A) reflect illegal
230 discrimination, [(2)] (B) arbitrarily exclude low-income or moderate-
231 income geographies, or [(3)] (C) extend substantially beyond a
232 consolidated metropolitan statistical area boundary or beyond a state
233 boundary, unless the assessment area is located in a multistate
234 metropolitan statistical area. A community credit union may adjust the
235 boundaries of its assessment areas to include only the portion of a
236 political subdivision that it reasonably can be expected to serve. A
237 community credit union shall immediately file an amendment with the
238 commissioner reflecting an adjustment of the boundaries of an
239 assessment area.

240 (2) On and after January 1, 2024, the commissioner shall assess each
241 community credit union's record of making residential loan products
242 available in, and advertising such products to, its assessment areas,
243 including low and moderate-income neighborhoods and census tracts
244 where the population of racial minorities is greater than fifty per cent,
245 in a manner that is consistent with the safe and sound operation of such
246 credit union. The terms of a residential loan product made available by
247 a community credit union in any of its assessment areas shall not be
248 based on the racial composition of the assessment area.

249 (c) The commissioner shall assess periodically the community
250 reinvestment performance of a community credit union consistent with
251 the safe and sound operation of the community credit union. The
252 commissioner shall assess the community reinvestment performance of
253 such community credit union based on: (1) The community credit
254 union's record of helping to meet the credit needs of its assessment area
255 or areas through qualified investments that benefit its assessment area
256 or areas or a broader state-wide or regional area that includes its
257 assessment area or areas; (2) the community credit union's record of
258 helping to meet the credit needs of its assessment area or areas, by
259 analyzing both the availability and effectiveness of its systems for
260 delivering retail credit union services and the extent and innovativeness
261 of its community development services; (3) loan-to-share ratio given the
262 community credit union's size and financial condition, credit needs of
263 the assessment area or areas, other lending-related activities,
264 considering seasonal variations, as used in 12 CFR 228.26; (4) percentage
265 of total loans and other lending-related activities within the assessment
266 area or areas; (5) record of lending and other lending-related activities
267 to borrowers of different income levels, and businesses and farms of
268 different sizes; (6) geographic distribution of loans; (7) action taken in
269 response to written complaints with respect to community reinvestment
270 performance; (8) efforts of the community credit union to work with
271 delinquent residential mortgage customers who are unemployed or
272 underemployed to facilitate a resolution of the delinquency; and (9)
273 written comments received by the commissioner.

274 (d) (1) Upon the completion of the assessment required under
275 subsection (c) of this section, the commissioner shall prepare a written
276 evaluation of the community credit union’s community reinvestment
277 performance.

278 (2) The performance evaluation shall (A) state the commissioner's
279 assessment of the community reinvestment performance of the
280 community credit union, (B) set forth and discuss the facts supporting
281 such assessment, and (C) contain the community credit union’s rating
282 and a statement describing the basis for the rating. The rating shall be
283 one of the following: (i) Outstanding record of meeting community
284 credit needs; (ii) satisfactory record of meeting community credit needs;
285 (iii) needs to improve record of meeting community credit needs; or (iv)
286 substantial noncompliance in meeting community credit needs. The
287 commissioner shall furnish a copy of the performance evaluation to the
288 community credit union upon its completion.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2023	36a-736
Sec. 2	January 1, 2023	36a-737(a)
Sec. 3	January 1, 2023	36a-740
Sec. 4	January 1, 2023	36a-741
Sec. 5	January 1, 2023	36a-743
Sec. 6	January 1, 2023	36a-30
Sec. 7	January 1, 2023	36a-37a

BA Joint Favorable Subst.