



# House of Representatives

## File No. 705

General Assembly

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January Session, 2021 **(Reprint of File No. 229)**

Substitute House Bill No. 6495  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 20, 2021

**AN ACT CONCERNING EQUITY, FAIR LENDING AND THE BANKING  
COMMISSIONER'S AUTHORITY TO PERMIT INDIVIDUALS TO  
ENGAGE IN CERTAIN LICENSED OR REGISTERED ACTIVITIES  
FROM A LOCATION OTHER THAN A LICENSED OFFICE.**

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 Section 36a-736 of the general statutes is repealed and the  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, 2022*):

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 makes home purchase loans or home  
16 improvement loans or any for profit mortgage lending institution other  
17 than a Connecticut bank or Connecticut credit union, [whose home  
18 purchase loan originations equaled or exceeded ten per cent of its loan  
19 origination volume, measured in dollars,] that originated twenty-five or  
20 more closed-end mortgage loans or one hundred or more open-end  
21 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. Section 36a-737 of the general statutes is repealed and the  
34 following is substituted in lieu thereof (*Effective January 1, 2022*):

35 (a) (1) No financial institution and no federal bank or federal credit  
36 union shall discriminate, on a basis that is arbitrary or unsupported by  
37 a reasonable analysis of the lending risks associated with the applicant  
38 for a given loan or the condition of the property to secure it, in the  
39 granting, withholding, extending, modifying, renewing or in the fixing  
40 of the rates, terms, conditions or provisions of any home purchase loan,

41 home improvement loan or other mortgage loan on one-to-four-family  
42 owner-occupied residential real property, solely because such property  
43 is located in a low-income or moderate-income neighborhood or  
44 geographical area, provided it shall not be a violation of this section if  
45 the home purchase loan, home improvement loan or other mortgage  
46 loan is made pursuant to a specific public or private program, the  
47 purpose of which is to increase the availability of home purchase loans,  
48 home improvement loans or other mortgage loans within a low-income  
49 or moderate-income neighborhood or geographical area in which such  
50 investment capital has generally been denied.

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

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

74 (b) If a member of any reserve component of the armed forces of the  
75 United States, as defined in section 27-103, or a member of the National  
76 Guard, is called into active duty after submitting an application to a  
77 financial institution, federal bank or federal credit union for a home  
78 purchase loan, home improvement loan or other mortgage loan on one-  
79 to-four-family owner-occupied residential real property and before the  
80 financial institution, federal bank or federal credit union makes a  
81 determination on the application, such financial institution, federal  
82 bank or federal credit union shall maintain the application on file for  
83 two years and two months after such member is called into active duty,  
84 if the member submits, not later than thirty days after being called into  
85 active duty, a written statement to the financial institution, federal bank  
86 or federal credit union indicating that the member (1) has been called  
87 into active duty, and (2) requests that the application be maintained on  
88 file. If the applicant returns from active duty not later than two years  
89 after submitting an application under this section and submits a written  
90 statement to the financial institution, federal bank or federal credit  
91 union not later than sixty days after being discharged from active duty  
92 verifying that there has been no material change in the applicant's  
93 income, assets, debts and employment, the financial institution, federal  
94 bank or federal credit union shall finalize processing of the application  
95 in accordance with the same terms and conditions that it made available  
96 to the applicant at the time of application, provided the financial  
97 institution, federal bank or federal credit union shall offer to the  
98 applicant any different terms and conditions that the financial  
99 institution, federal bank or federal credit union is offering to the public  
100 at the time of the applicant's return from active duty.

101 Sec. 3. Section 36a-740 of the general statutes is repealed and the  
102 following is substituted in lieu thereof (*Effective January 1, 2022*):

103 Any applicant or person who has been discriminated against as a  
104 result of a violation of section 36a-737, as amended by this act, and the  
105 regulations adopted pursuant to sections 36a-735 to 36a-744, inclusive,  
106 may bring an action in a court of competent jurisdiction. Upon finding  
107 that a financial institution is in violation of sections 36a-735 to 36a-744,

108 inclusive, the court may award damages, reasonable attorneys' fees and  
109 court costs. No class action shall be permitted pursuant to the provisions  
110 of this section. Any applicant or person alleging a violation under this  
111 section shall do so in the applicant's or person's own individual  
112 complaint and each case resulting from such complaints shall be heard  
113 on its own merits unless consolidation of such cases is agreed to by each  
114 defendant affected thereby.

115 Sec. 4. Section 36a-741 of the general statutes is repealed and the  
116 following is substituted in lieu thereof (*Effective January 1, 2022*):

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

121 (b) Whenever it appears to the commissioner that any financial  
122 institution or home loan lender has violated, is violating or is about to  
123 violate any provision of sections 36a-735 to 36a-744, inclusive, or any  
124 regulation adopted under said sections, the commissioner may take  
125 action against such financial institution in accordance with section 36a-  
126 50.

127 Sec. 5. Section 36a-743 of the general statutes is repealed and the  
128 following is substituted in lieu thereof (*Effective January 1, 2022*):

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

132 (b) Not later than July 1, 2022, the commissioner shall implement fair  
133 lending examination procedures to assess the compliance of a financial  
134 institution with the provisions of sections 36a-735 to 36a-744, inclusive,  
135 the Fair Housing Act, 42 USC 3601 et seq., as amended from time to time,  
136 and the Equal Credit Opportunity Act, 15 USC 1691 et seq., as amended  
137 from time to time, and any regulation adopted thereunder. Such  
138 procedures shall, to the maximum extent possible, align with the

139 interagency fair lending examination procedures adopted by the  
140 Consumer Financial Protection Bureau, the Federal Reserve Board, the  
141 Federal Deposit Insurance Corporation, the National Credit Union  
142 Administration and the Office of the Comptroller of the Currency. The  
143 commissioner may conduct fair lending examinations of financial  
144 institutions, as the commissioner deems appropriate.

145 (c) Without limiting any other power of the commissioner or any  
146 other action authorized by law, the commissioner may conduct an  
147 investigation, in accordance with the provisions of section 36a-17, of any  
148 financial institution if the commissioner (1) receives a complaint from  
149 any person detailing discriminatory lending practices by the financial  
150 institution, (2) finds a pattern of discriminatory lending practices in a  
151 fair lending examination conducted pursuant to subsection (b) of this  
152 section, or (3) finds, while conducting an assessment of the financial  
153 institution pursuant to section 36a-32 or 36a-37a, as amended by this act,  
154 that the financial institution is not satisfying its affirmative obligation to  
155 meet the credit needs of its local communities, including low and  
156 moderate-income neighborhoods under section 36a-30, as amended by  
157 this act, or 36a-37.

158 Sec. 6. Section 36a-30 of the general statutes is repealed and the  
159 following is substituted in lieu thereof (*Effective October 1, 2021*):

160 (a) As used in [sections 36a-30] this section and sections 36a-31 to 36a-  
161 33, inclusive, unless the context otherwise requires:

162 (1) "Bank" means any bank or out-of-state bank that maintains in this  
163 state a branch as defined in section 36a-410. "Bank" does not include  
164 special purpose banks that do not perform commercial or retail banking  
165 services in which credit is granted to the public in the ordinary course  
166 of business, other than as an incident to their specialized operations,  
167 including, but not limited to, banker's banks and banks that engage only  
168 in one or more of the following activities: Providing cash management  
169 controlled disbursement services or serving as correspondent banks,  
170 trust companies or clearing agents.

171 (2) "Federal CRA" means (A) the federal Community Reinvestment  
172 Act of 1977, 12 USC Section 2901 et seq., as from time to time amended,  
173 and (B) the regulations implementing said act adopted by the federal  
174 financial supervisory agencies as set forth in 12 CFR Part 25, 12 CFR Part  
175 228, 12 CFR Part 345 and 12 CFR Part 563e, as from time to time  
176 amended, and as applicable to the specific type of bank.

177 (3) "Federal financial supervisory agency" means the Office of the  
178 Comptroller of the Currency, the Board of Governors of the Federal  
179 Reserve System, the Federal Deposit Insurance Corporation, the Office  
180 of Thrift Supervision and any successor to any of the foregoing agencies,  
181 as applicable to the specific type of bank.

182 (b) The commissioner shall assess the record of each bank in  
183 satisfying its continuing and affirmative obligations to help meet the  
184 credit needs of its local communities, including low and moderate-  
185 income neighborhoods, consistent with the safe and sound operation of  
186 such banks, and shall provide for the consideration of such records in  
187 connection with any application listed in subsection (c) of section 36a-  
188 32.

189 (c) Each bank shall, in accordance with the provisions of federal CRA  
190 and without excluding low and moderate-income neighborhoods,  
191 delineate the local community or communities that comprise its entire  
192 community within this state or delineate one or more assessment areas,  
193 as applicable, within which the commissioner shall evaluate the bank's  
194 record of helping to meet the credit needs of its entire community in this  
195 state. The commissioner shall review the delineation for compliance  
196 with federal CRA and this subsection in connection with an examination  
197 of the bank under section 36a-17.

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

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

208 (f) Each bank shall maintain a public file in accordance with federal  
209 CRA. Each bank shall place a copy of the public section of the bank's  
210 most recent community reinvestment performance evaluation prepared  
211 by the commissioner pursuant to subsection (b) of section 36a-32 in the  
212 public file within thirty business days after its receipt from the  
213 commissioner. The bank may also include in the public file any response  
214 to such performance evaluation that the bank wishes to make. The bank  
215 shall make a copy of the public section of such performance evaluation  
216 available to the public for inspection upon request and at no cost at the  
217 bank's main office and at each of its branches in this state. Any bank that  
218 received a less than satisfactory rating during its most recent  
219 examination under section 36a-32 shall include in its public file a  
220 description of its current efforts to improve its performance in helping  
221 to meet the credit needs of its entire community. The bank shall update  
222 the description quarterly.

223 (g) The commissioner (1) may assess a bank's record of helping to  
224 meet the credit needs of its assessment areas under a strategic plan  
225 pursuant to federal CRA, provided [(1)] (A) the strategic plan is filed  
226 with the commissioner concurrently with its submission by the bank to  
227 a federal financial supervisory agency for approval under federal CRA,  
228 and [(2)] (B) the strategic plan is approved by the commissioner, and (2)  
229 shall assess each bank's record of making residential loan products  
230 available in, and advertising such products to, its assessment areas,  
231 including low and moderate-income neighborhoods and census tracts  
232 where the population of racial minorities is greater than fifty per cent,  
233 in a manner that is consistent with the safe and sound operation of such  
234 bank. The terms of a residential loan product made available by a bank  
235 in any of its assessment areas shall not be based on the racial  
236 composition of the assessment area.



237 Sec. 7. Section 36a-37a of the general statutes is repealed and the  
238 following is substituted in lieu thereof (*Effective October 1, 2021*):

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

243 (b) (1) Not later than six months following July 1, 2001, each  
244 community credit union shall delineate one or more assessment areas  
245 within which the commissioner shall evaluate the community credit  
246 union's community reinvestment performance in this state and shall file  
247 such delineations with the commissioner. An assessment area shall  
248 consist only of whole geographies, and may not ~~[(1)] (A)~~ reflect illegal  
249 discrimination, ~~[(2)] (B)~~ arbitrarily exclude low-income or moderate-  
250 income geographies, or ~~[(3)] (C)~~ extend substantially beyond a  
251 consolidated metropolitan statistical area boundary or beyond a state  
252 boundary, unless the assessment area is located in a multistate  
253 metropolitan statistical area. A community credit union may adjust the  
254 boundaries of its assessment areas to include only the portion of a  
255 political subdivision that it reasonably can be expected to serve. A  
256 community credit union shall immediately file an amendment with the  
257 commissioner reflecting an adjustment of the boundaries of an  
258 assessment area.

259 (2) The commissioner shall assess each community credit union's  
260 record of making residential loan products available in, and advertising  
261 such products to, its assessment areas, including low and moderate-  
262 income neighborhoods and census tracts where the population of racial  
263 minorities is greater than fifty per cent, in a manner that is consistent  
264 with the safe and sound operation of such credit union. The terms of a  
265 residential loan product made available by a community credit union in  
266 any of its assessment areas shall not be based on the racial composition  
267 of the assessment area.

268 (c) The commissioner shall assess periodically the community

269 reinvestment performance of a community credit union consistent with  
270 the safe and sound operation of the community credit union. The  
271 commissioner shall assess the community reinvestment performance of  
272 such community credit union based on: (1) The community credit  
273 union's record of helping to meet the credit needs of its assessment area  
274 or areas through qualified investments that benefit its assessment area  
275 or areas or a broader state-wide or regional area that includes its  
276 assessment area or areas; (2) the community credit union's record of  
277 helping to meet the credit needs of its assessment area or areas, by  
278 analyzing both the availability and effectiveness of its systems for  
279 delivering retail credit union services and the extent and innovativeness  
280 of its community development services; (3) loan-to-share ratio given the  
281 community credit union's size and financial condition, credit needs of  
282 the assessment area or areas, other lending-related activities,  
283 considering seasonal variations, as used in 12 CFR 228.26; (4) percentage  
284 of total loans and other lending-related activities within the assessment  
285 area or areas; (5) record of lending and other lending-related activities  
286 to borrowers of different income levels, and businesses and farms of  
287 different sizes; (6) geographic distribution of loans; (7) action taken in  
288 response to written complaints with respect to community reinvestment  
289 performance; (8) efforts of the community credit union to work with  
290 delinquent residential mortgage customers who are unemployed or  
291 underemployed to facilitate a resolution of the delinquency; and (9)  
292 written comments received by the commissioner.

293 (d) (1) Upon the completion of the assessment required under  
294 subsection (c) of this section, the commissioner shall prepare a written  
295 evaluation of the community credit union's community reinvestment  
296 performance.

297 (2) The performance evaluation shall (A) state the commissioner's  
298 assessment of the community reinvestment performance of the  
299 community credit union, (B) set forth and discuss the facts supporting  
300 such assessment, and (C) contain the community credit union's rating  
301 and a statement describing the basis for the rating. The rating shall be  
302 one of the following: (i) Outstanding record of meeting community

303 credit needs; (ii) satisfactory record of meeting community credit needs;  
 304 (iii) needs to improve record of meeting community credit needs; or (iv)  
 305 substantial noncompliance in meeting community credit needs. The  
 306 commissioner shall furnish a copy of the performance evaluation to the  
 307 community credit union upon its completion.

308 Sec. 8. (NEW) (*Effective July 1, 2021*) The Banking Commissioner may,  
 309 by order, establish a process to permit individuals engaging in an  
 310 activity pursuant to a license or registration issued by the commissioner  
 311 under title 36a of the general statutes to conduct such activity from a  
 312 location other than an office location licensed on the system, as defined  
 313 in section 36a-2 of the general statutes.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2022</i>	36a-736
Sec. 2	<i>January 1, 2022</i>	36a-737
Sec. 3	<i>January 1, 2022</i>	36a-740
Sec. 4	<i>January 1, 2022</i>	36a-741
Sec. 5	<i>January 1, 2022</i>	36a-743
Sec. 6	<i>October 1, 2021</i>	36a-30
Sec. 7	<i>October 1, 2021</i>	36a-37a
Sec. 8	<i>July 1, 2021</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Banking Dept.	BF - Cost	Up to \$75,000	None
Banking Dept.	BF - Potential Cost	None	See Below

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill requires the Department of Banking (DOB) to implement fair lending examination procedures which will result in a cost of up to \$75,000 for specialized software and training necessary to perform the examinations. The bill also allows the Department of Banking to conduct fair lending examinations as the commissioner deems necessary. To the extent that this could result in additional examinations, there may be a potential cost for staffing in FY 23.

The estimate of a one-time cost in FY 22 of \$65,000 - \$75,000 for the DOB software related expense is based on the cost to the Department of Revenue Services for a similar expenditure, as information was not available for the DOB specific software.

As the language regarding fair lending examinations is permissive, any future staffing cost would be based on the number of examinations performed. It is anticipated that due to the complexity of the fair lending examinations they would be performed by a Principal Financial

Examiner.<sup>1</sup> The salary range for a Principal Financial Examiner is \$90,203 - \$115,434. Based on the starting salary and fringe benefit rate charged to the Banking Fund<sup>2</sup>, the Principal Financial Examiner position has an annualized cost of approximately \$176,400 to the Banking Fund and a one-time cost of \$5,000 for equipment and training. The department anticipates that one Principal Financial Examiner will perform approximately 6 examinations per year.

The bill also allows the Banking Commissioner to permit individuals licensed or registered by the department to conduct activity from a location other than the licensed office location which has no fiscal impact.

House "A" strikes the underlying bill and replaces it with language that results in the fiscal impact identified above.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Comptroller of the Currency Fair Lending Handbook  
Core-CT Financial Accounting System  
Department of Banking*

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<sup>1</sup> The agency currently has 15 Principal Financial Examiner positions.

<sup>2</sup> The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, rather than the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 95.57% of payroll in FY 22 and FY 23.

**OLR Bill Analysis****sHB 6495 (as amended by House "A")\******AN ACT CONCERNING EQUITY AND FAIR LENDING.*****SUMMARY**

This bill prohibits certain financial institutions from discriminating against any person in violation of certain federal and state laws, including discrimination by sexual orientation. It also:

1. requires the banking commissioner to assess Connecticut banks' and community credit unions' record of making and advertising residential loan products to minority communities;
2. allows the banking commissioner to assess financial institutions' compliance with fair lending examination procedures the bill establishes (due to federal preemption, the commissioner can generally only examine state-chartered banks and credit unions (see COMMENT));
3. makes any entity that originates more than a certain number of home loans a "financial institution," rather than only those that originate more than 10% of their total loan dollar-value;
4. incorporates "home loan lenders" into the state's Home Mortgage Disclosure Act (HMDA), which prohibits mortgage discrimination and requires certain loan related disclosures; and
5. allows anyone who has been discriminated against by these institutions to sue for damages, rather than only certain applicants as under current law.

Current law generally requires individuals to conduct activities

licensed or regulated by the Department of Banking at a registered office. The bill authorizes the commissioner to establish a process to allow individuals to conduct these activities from other locations as well.

\*House Amendment "A" (1) requires the commissioner to assess banks' and credit unions' lending and advertising in minority communities, (2) eliminates the underlying bill's requirement that banks and credit unions take all reasonable steps to ensure loan products are made and marketed equally in different communities, (3) authorizes the commissioner to establish a process allowing licensed or regulated activity outside of the registered office, and (4) makes minor and conforming changes.

EFFECTIVE DATE: January 1, 2022, except that the residential loan product provision is effective October 1, 2021, and the provision allowing the commissioner to establish a process to work from other locations is effective July 1, 2021.

## **§ 2 — DISCRIMINATION PROHIBITED ON FINANCIAL INSTITUTIONS**

The bill prohibits "financial institutions" (see §§ 1-4 below), federal banks, or credit unions from discriminating against any person in violation of the federal Fair Housing Act (FHA), the federal Equal Credit Opportunity Act (ECOA), or state human rights and opportunities discriminatory housing and credit laws.

### ***FHA and ECOA***

Under the FHA, it is unlawful for banks, lenders, and others involved in residential real estate transactions to discriminate based on race, color, religion, sex, nationality, disability, or family status (42 U.S.C. 3601 et seq.). The ECOA prohibits discriminatory credit practices, including in lending credit secured by real estate, based on race, color, religion, national origin, sex, marital status, age, or public assistance (15 U.S.C. 1691 et seq.).

### ***State Housing and Credit Discrimination Laws***

The bill also prohibits these entities from engaging in discriminatory housing and credit practices as defined by existing state law. By law, anyone aggrieved by an alleged discriminatory housing or credit practice may file a complaint with the Commission on Human Rights and Opportunities (CHRO). CHRO investigates and enforces anti-discrimination laws in these and other areas and may also bring a complaint itself if it has reason to believe that a discriminatory practice has occurred (CGS § 46a-82).

***Discriminatory Housing Practices.*** Among other things, discriminatory housing practices include discrimination in a home's sale or rental, or in real estate transaction terms and conditions, based on race, creed, color, national origin, ancestry, sex, gender identity or expression, marital status, age, lawful source of income, familial status, status as a veteran, or sexual orientation or civil union status (CGS §§ 46a-64c & -81e).

***Discriminatory Credit Practices.*** A discriminatory credit practices is any discrimination in credit secured by residential real estate, among other things. This includes discriminating in the availability of real estate secured credit based on substantially similar categories as listed above (CGS §§ 46a-65, - 66 & -81f).

## **§ 5 — FAIR LENDING EXAMINATION PROCEDURES FOR FINANCIAL INSTITUTIONS**

The bill requires the banking commissioner, by July 1, 2022, to implement fair lending examination procedures to assess the compliance of a financial institution with the bill's provisions, including the provisions requiring FHA and ECOA compliance.

To the extent possible, these procedures must align with the interagency fair lending examination procedures adopted by the Consumer Financial Protection Bureau, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

The commissioner may conduct fair lending examinations of



financial institutions as he deems appropriate.

Without limiting any of the commissioner's existing power or any other legally authorized action, the bill authorizes the commissioner to investigate any financial institution if he:

1. receives a complaint detailing discriminatory lending practices;
2. finds a pattern of discriminatory lending practices in a fair lending examination conducted under the procedures described above; or
3. finds, while conducting Community Reinvestment Act (CRA, see BACKGROUND) or community credit union examinations, that the financial institution is not satisfying its affirmative obligation to meet its local community's credit needs, including low- and moderate-income neighborhoods.

These investigations are done under his existing examination authority.

#### **§§ 6 & 7 — REQUIRED ASSESSMENT FOR BANK AND CREDIT UNIONS**

The bill requires the commissioner to assess banks', out-of-state banks', and community credit unions' record of making residential loan products available in, and advertising them to, their assessment areas, including low- and moderate-income neighborhoods and census tracts where more than half the population are racial minorities, in a manner consistent with safe and sound banking operations. Under the bill, the terms of loan products made available in these assessment areas may not be based on the assessment area's racial composition.

Although the bill's applicability includes banks and out-of-state banks, in practice federal preemption may limit these provisions to Connecticut banks (see COMMENT).

By law, a community credit union is a state-chartered credit union with at least \$10 million in assets that limit membership to a specific

community, neighborhood, or rural district. An “assessment area” is an area defined by a financial institution that it serves, and generally must be comprised of whole census tracts without arbitrarily excluding or discriminating against certain areas. These areas may include low- and moderate-income communities.

### **§§ 1-4 — HOME MORTGAGE DISCLOSURE ACT (HMDA)**

Under current law, an entity qualifies as a “financial institution” if more than 10% of its loan business by dollar-volume from the past year is from home origination loans. The bill changes this threshold from a percentage of business to one based on the number of loans made. It does this by making any for-profit licensed mortgage lender, correspondent lender, or broker that originated at least 25 closed-end mortgage loans or 100 open-end mortgage loans in the preceding two years a financial institution. (Generally, a closed-end mortgage is for a set amount that is paid off in installments; an open-end mortgage is one that can be increased or paid back throughout the loan’s term.)

By law, “financial institutions” also include Connecticut banks and credit unions that make home purchase loans or home improvement loans.

A “home purchase loan” is a closed-end mortgage or an open-end line of credit used at least in part to buy a residential home. A “home improvement loan” is one of these mortgages or lines of credit used to repair, rehabilitate, remodel, or improve a residential home or the property it is on (12 C.F.R. 1003.2(d) & (o)).

#### ***Existing HMDA Provisions Applicable to Financial Institutions or Home Loan Lenders***

The bill subjects financial institutions and also incorporates “home loan lenders” into certain HMDA provisions. A “home loan lender” is a person making home purchase loans, home improvement loans, or mortgage loans (“home loans”) in Connecticut.

***Discrimination Prohibition.*** Under the HMDA, financial institutions are generally prohibited from arbitrarily discriminating against

applicants for home loans for properties in low- or moderate-income areas. These institutions cannot discriminate in home loan rates, terms, conditions, or provisions in ways that are not supported by reasonable risk analysis or the property condition. But the law allows public or private programs to make home loans intended to increase the availability of home loan lending in low- and moderate-income areas in which investment capital has generally been denied (CGS § 36a-737).

**Disclosure Requirements.** The HMDA requires financial institutions to (1) comply with all applicable federal HMDA requirements and (2) report on the federal HMDA loan application and register the reason for denying any loan. The federal HMDA generally requires financial institutions to report loan-level information about mortgages.

Financial institutions must also give the commissioner any information requested if the federal HMDA requires that it be disclosed (e.g., race, ethnicity, and sex of loan applicants and geographic location of the property) that he cannot access. Financial institutions failing to do so may be fined \$100 per day (CGS §§ 36a-738 & -739).

**Subject to Lawsuit.** Current law allows applicants facing discrimination by financial institutions under the state HMDA and its regulations to sue for damages, reasonable attorneys' fees, and court costs (CGS § 36a-740). The bill expands this provision to allow anyone who has been discriminated against, not just loan applicants, to bring suit.

**Commissioner Enforcement and Confidentiality.** By law, the commissioner may (1) order financial institutions to cease and desist from discriminating against people under the HMDA and (2) take other enforcement action, including by bringing suit in Hartford Superior Court (CGS §§ 36a-741 & -52). The bill also applies this provision to home loan lenders (see below).

The law also exempts financial institutions from disclosing individual depositors or mortgagors except to an appropriate state

agency (CGS § 36a-742).

## **§§ 1 & 2 — HOME LOAN LENDERS**

The bill prohibits home loan lenders from:

1. on the basis of race or national origin, (a) failing or refusing to provide any person information about a home loan's availability, application requirements, procedures, or review and approval standards or (b) providing inaccurate information or information that is different than that provided to other prospective applicants or
2. discouraging anyone from buying a dwelling, or refusing to issue a person a home loan, solely because of a person's race or national origin or the race or national original of people residing in the potential home's geographic area (i.e., the municipality, neighborhood, census tract, or other geographic subdivision, including an apartment or condominium complex, where the home is located).

By law, a dwelling is any residential building, structure, or mobile home or any vacant land offered for sale or lease for the construction of one of these residences (CGS § 46a-64b).

## **COMMENT**

### ***Federal Preemption***

With certain exceptions, federal law prohibits state regulatory officials from exercising visitorial powers over nationally chartered banks, including conducting examinations, inspecting, or requiring banks to produce books or records, or prosecuting enforcement actions (12 U.S.C. 484 & 12 C.F.R. 7.4000(a)). As a result, it is unclear if (1) the banking commissioner may examine nationally chartered banks for compliance with the bill's provisions as described in § 5, or (2) these banks are subject to the bill's new Community Reinvestment Act provisions described in § 6.

## **BACKGROUND**

**Community Reinvestment Act (CRA)**

The Connecticut CRA, among other things, requires the banking commissioner to assess each bank’s record of meeting its local communities’ credit needs, including low- and moderate-income neighborhoods. The banking department gives each bank a score reflecting their community lending efforts. Banks receiving lower assessment scores may be prohibited from certain activities (e.g., opening new branches or merging with other banks). In practice, the law applies to all state-chartered banks, as well as out-of-state banks with a Connecticut branch. Banks that generally do not grant credit to the public during normal business are exempt (CGS § 36a-30).

Nationally chartered banks are examined for federal CRA compliance by the Office of the Comptroller of the Currency or another federal regulator.

**COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute  
Yea 11 Nay 7 (03/17/2021)

Appropriations Committee

Joint Favorable  
Yea 34 Nay 15 (05/10/2021)