



General Assembly

January Session, 2021

Raised Bill No. 6495

LCO No. 3890



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT CONCERNING EQUITY AND 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 Section 36a-736 of the general statutes is repealed and the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, 2022*):

3 As used in sections 36a-735 to 36a-744, inclusive, as amended by this
4 act, unless the context 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, as amended by this act, the supervisory agency shall be the
14 commissioner;

15 (3) "Financial institution" means any Connecticut bank or
16 Connecticut credit union which makes home purchase loans or home
17 improvement loans or any for profit mortgage lending institution other
18 than a Connecticut bank or Connecticut credit union, [whose home
19 purchase loan originations equaled or exceeded ten per cent of its loan
20 origination volume, measured in dollars,] that originated twenty-five or
21 more closed-end mortgage loans or one hundred or more open-end
22 mortgage loans in the preceding two calendar [year] years, if such
23 mortgage lending institution is licensed under sections 36a-485 to 36a-
24 498a, inclusive;

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

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

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

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

34 Sec. 2. Section 36a-737 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective January 1, 2022*):

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 301 et seq., as amended from time to time, the Equal Credit
55 Opportunity Act, 15 USC 1691 et seq., as amended from time to time,
56 sections 46a-64c to 46a-67, inclusive, section 46a-81e or 46a-81f or any
57 regulation adopted pursuant to such state or federal laws.

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

72 (b) If a member of any reserve component of the armed forces of the
73 United States, as defined in section 27-103, or a member of the National
74 Guard, is called into active duty after submitting an application to a
75 financial institution, federal bank or federal credit union for a home
76 purchase loan, home improvement loan or other mortgage loan on one-
77 to-four-family owner-occupied residential real property and before the
78 financial institution, federal bank or federal credit union makes a

79 determination on the application, such financial institution, federal
80 bank or federal credit union shall maintain the application on file for
81 two years and two months after such member is called into active duty,
82 if the member submits, not later than thirty days after being called into
83 active duty, a written statement to the financial institution, federal bank
84 or federal credit union indicating that the member (1) has been called
85 into active duty, and (2) requests that the application be maintained on
86 file. If the applicant returns from active duty not later than two years
87 after submitting an application under this section and submits a written
88 statement to the financial institution, federal bank or federal credit
89 union not later than sixty days after being discharged from active duty
90 verifying that there has been no material change in the applicant's
91 income, assets, debts and employment, the financial institution, federal
92 bank or federal credit union shall finalize processing of the application
93 in accordance with the same terms and conditions that it made available
94 to the applicant at the time of application, provided the financial
95 institution, federal bank or federal credit union shall offer to the
96 applicant any different terms and conditions that the financial
97 institution, federal bank or federal credit union is offering to the public
98 at the time of the applicant's return from active duty.

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

101 Any applicant or person who has been discriminated against as a
102 result of a violation of section 36a-737, as amended by this act, and the
103 regulations adopted pursuant to sections 36a-735 to 36a-744, inclusive,
104 as amended by this act, may bring an action in a court of competent
105 jurisdiction. Upon finding that a financial institution is in violation of
106 sections 36a-735 to 36a-744, inclusive, as amended by this act, the court
107 may award damages, reasonable attorneys' fees and court costs. No
108 class action shall be permitted pursuant to the provisions of this section.
109 Any applicant or person alleging a violation under this section shall do
110 so in the [applicant's] applicant or person's own individual complaint
111 and each case resulting from such complaints shall be heard on its own
112 merits unless consolidation of such cases is agreed to by each defendant

113 affected thereby.

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

116 (a) If the commissioner finds that a financial institution or home loan
117 lender is violating the provisions of sections 36a-735 to 36a-744,
118 inclusive, as amended by this act, the commissioner shall order the
119 institution to cease and desist from such practices in accordance with
120 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, as
124 amended by this act, or any regulation adopted under said sections, the
125 commissioner may take action against such financial institution in
126 accordance with section 36a-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 Fair Housing Act, 42 USC 301 et seq., as amended
135 from time to time, and the Equal Credit Opportunity Act, 15 USC 1691
136 et seq., as amended from time to time, and any regulation adopted
137 thereunder. Such procedures shall, to the maximum extent possible,
138 align with the interagency fair lending examination procedures adopted
139 by the Consumer Financial Protection Bureau, the Federal Reserve
140 Board, the Federal Deposit Insurance Corporation, the National Credit
141 Union Administration and the Office of the Comptroller of the
142 Currency. The commissioner shall conduct not less than one fair lending
143 examination of each financial institution per year.

144 (c) The commissioner may conduct an investigation, in accordance
145 with the provisions of section 36a-17, or a fair lending examination, in
146 accordance with the procedures developed pursuant to subsection (b)
147 of this section, of any financial institution if the commissioner (1)
148 receives a complaint from any person detailing discriminatory lending
149 practices by the financial institution, (2) finds a pattern of discriminatory
150 lending practices in the fair lending examination conducted pursuant to
151 subsection (b) of this section, or (3) finds, while conducting an
152 assessment of the financial institution pursuant to section 36a-32 or 36a-
153 37a, as amended by this act, that the financial institution is not satisfying
154 its affirmative obligation to meet the credit needs of its local
155 communities, including low and moderate-income neighborhoods
156 under section 36a-30, as amended by this act, or 36a-37.

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

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

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

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

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

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

188 (c) (1) Each bank shall, in accordance with the provisions of federal
189 CRA and without excluding low and moderate-income neighborhoods,
190 delineate the local community or communities that comprise its entire
191 community within this state or delineate one or more assessment areas,
192 as applicable, within which the commissioner shall evaluate the bank's
193 record of helping to meet the credit needs of its entire community in this
194 state. The commissioner shall review the delineation for compliance
195 with federal CRA and this subsection in connection with an examination
196 of the bank under section 36a-17.

197 (2) Each bank shall take all reasonable steps consistent with the safe
198 and sound operation of such bank to make residential loan products
199 available in and to advertise such products to its assessment areas,
200 including low and moderate-income neighborhoods and census tracts
201 where the population of racial minorities is greater than fifty per cent.
202 Such residential loan products shall be on terms no less favorable than
203 the residential loan products made available by the bank in census
204 tracks where the population of racial minorities is less than fifty per cent.

205 (d) Each bank shall collect and report loan information in accordance
206 with the applicable requirements of federal CRA. Each bank shall file
207 with the commissioner a copy of each CRA disclosure statement

208 prepared for such bank by a federal financial supervisory agency under
209 federal CRA within thirty business days after receiving the statement.

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

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

230 (g) The commissioner may assess a bank's record of helping to meet
231 the credit needs of its assessment areas under a strategic plan pursuant
232 to federal CRA, provided (1) the strategic plan is filed with the
233 commissioner concurrently with its submission by the bank to a federal
234 financial supervisory agency for approval under federal CRA, and (2)
235 the strategic plan is approved by the commissioner.

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

238 (a) Each community credit union shall satisfy its continuing and
239 affirmative obligation to help meet the credit needs of its community,

240 including low-income and moderate-income neighborhoods, consistent
241 with the safe and sound operation of such community credit union.

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

257 (2) Each community credit union shall take all reasonable steps
258 consistent with the safe and sound operation of such credit union to
259 make residential loan products available in and to advertise such
260 products to its assessment areas, including low and moderate income
261 neighborhoods and census tracts where the population of racial
262 minorities is greater than fifty per cent. Such residential loan products
263 shall be on terms no less favorable than the residential loan products
264 made available by the community credit union in census tracts where
265 the population of racial minorities is less than fifty per cent.

266 (c) The commissioner shall assess periodically the community
267 reinvestment performance of a community credit union consistent with
268 the safe and sound operation of the community credit union. The
269 commissioner shall assess the community reinvestment performance of
270 such community credit union based on: (1) The community credit
271 union's record of helping to meet the credit needs of its assessment area
272 or areas through qualified investments that benefit its assessment area

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

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

295 (2) The performance evaluation shall (A) state the commissioner's
296 assessment of the community reinvestment performance of the
297 community credit union, (B) set forth and discuss the facts supporting
298 such assessment, and (C) contain the community credit union's rating
299 and a statement describing the basis for the rating. The rating shall be
300 one of the following: (i) Outstanding record of meeting community
301 credit needs; (ii) satisfactory record of meeting community credit needs;
302 (iii) needs to improve record of meeting community credit needs; or (iv)
303 substantial noncompliance in meeting community credit needs. The
304 commissioner shall furnish a copy of the performance evaluation to the
305 community credit union upon its completion.

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

Statement of Purpose:

To (1) prohibit certain financial institutions from engaging in certain discriminatory conduct, (2) require the Banking Commissioner to implement fair lending examination procedures, and (3) require certain banks to take reasonable measures to make certain residential loan products available to certain areas.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]