



General Assembly

Amendment

January Session, 2021

LCO No. 8631



Offered by:
REP. DOUCETTE, 13th Dist.

To: Subst. House Bill No. 6495

File No. 229

Cal. No. 190

"AN ACT CONCERNING EQUITY AND FAIR LENDING."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 36a-736 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective January 1, 2022*):

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

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

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

15 inclusive, the supervisory agency shall be the commissioner;

16 (3) "Financial institution" means any Connecticut bank or
17 Connecticut credit union which makes home purchase loans or home
18 improvement loans or any for profit mortgage lending institution other
19 than a Connecticut bank or Connecticut credit union, [whose home
20 purchase loan originations equaled or exceeded ten per cent of its loan
21 origination volume, measured in dollars,] that originated twenty-five or
22 more closed-end mortgage loans or one hundred or more open-end
23 mortgage loans in the preceding two calendar [year] years, if such
24 mortgage lending institution is licensed under sections 36a-485 to 36a-
25 498a, inclusive;

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

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

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

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

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 Section 36a-737 of the general statutes is repealed and the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

37 (a) (1) No financial institution and no federal bank or federal credit
38 union shall discriminate, on a basis that is arbitrary or unsupported by
39 a reasonable analysis of the lending risks associated with the applicant
40 for a given loan or the condition of the property to secure it, in the
41 granting, withholding, extending, modifying, renewing or in the fixing
42 of the rates, terms, conditions or provisions of any home purchase loan,
43 home improvement loan or other mortgage loan on one-to-four-family
44 owner-occupied residential real property, solely because such property

45 is located in a low-income or moderate-income neighborhood or
46 geographical area, provided it shall not be a violation of this section if
47 the home purchase loan, home improvement loan or other mortgage
48 loan is made pursuant to a specific public or private program, the
49 purpose of which is to increase the availability of home purchase loans,
50 home improvement loans or other mortgage loans within a low-income
51 or moderate-income neighborhood or geographical area in which such
52 investment capital has generally been denied.

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

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

76 (b) If a member of any reserve component of the armed forces of the
77 United States, as defined in section 27-103, or a member of the National

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

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

105 Any applicant or person who has been discriminated against as a
106 result of a violation of section 36a-737, as amended by this act, and the
107 regulations adopted pursuant to sections 36a-735 to 36a-744, inclusive,
108 may bring an action in a court of competent jurisdiction. Upon finding
109 that a financial institution is in violation of sections 36a-735 to 36a-744,
110 inclusive, the court may award damages, reasonable attorneys' fees and
111 court costs. No class action shall be permitted pursuant to the provisions

112 of this section. Any applicant or person alleging a violation under this
113 section shall do so in the applicant's or person's own individual
114 complaint and each case resulting from such complaints shall be heard
115 on its own merits unless consolidation of such cases is agreed to by each
116 defendant affected thereby.

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

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

123 (b) Whenever it appears to the commissioner that any financial
124 institution or home loan lender has violated, is violating or is about to
125 violate any provision of sections 36a-735 to 36a-744, inclusive, or any
126 regulation adopted under said sections, the commissioner may take
127 action against such financial institution in accordance with section 36a-
128 50.

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

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

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

143 Federal Deposit Insurance Corporation, the National Credit Union
144 Administration and the Office of the Comptroller of the Currency. The
145 commissioner may conduct fair lending examinations of financial
146 institutions, as the commissioner deems appropriate.

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

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

162 (a) As used in [sections 36a-30] this section and sections 36a-31 to 36a-
163 33, inclusive, unless the context otherwise requires:

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

173 (2) "Federal CRA" means (A) the federal Community Reinvestment
174 Act of 1977, 12 USC Section 2901 et seq., as from time to time amended,

175 and (B) the regulations implementing said act adopted by the federal
176 financial supervisory agencies as set forth in 12 CFR Part 25, 12 CFR Part
177 228, 12 CFR Part 345 and 12 CFR Part 563e, as from time to time
178 amended, and as applicable to the specific type of bank.

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

184 (b) The commissioner shall assess the record of each bank in
185 satisfying its continuing and affirmative obligations to help meet the
186 credit needs of its local communities, including low and moderate-
187 income neighborhoods, consistent with the safe and sound operation of
188 such banks, and shall provide for the consideration of such records in
189 connection with any application listed in subsection (c) of section 36a-
190 32.

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

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

205 (e) Copies of the public section of the most recent community
206 reinvestment performance evaluation prepared by the commissioner

207 pursuant to subsection (b) of section 36a-32 shall be provided to the
208 public upon request. A bank may charge a reasonable fee not to exceed
209 the cost of copying and mailing, if applicable.

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

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

239 Sec. 7. Section 36a-37a of the general statutes is repealed and the

240 following is substituted in lieu thereof (*Effective October 1, 2021*):

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

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

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

270 (c) The commissioner shall assess periodically the community
271 reinvestment performance of a community credit union consistent with

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

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

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

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

310 Sec. 8. (NEW) (*Effective July 1, 2021*) The Banking Commissioner may,
 311 by order, establish a process to permit individuals engaging in an
 312 activity pursuant to a license or registration issued by the commissioner
 313 under title 36a of the general statutes to conduct such activity from a
 314 location other than an office location licensed on the system, as defined
 315 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