

**Proposed Substitute
Bill No. 6495**

LCO No. 5488

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 Section 36a-736 of the general statutes is repealed and the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, 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 Section 36a-737 of the general statutes is repealed and the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 301 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) (i) fail or refuse to provide to any
58 person information regarding the availability of a home purchase loan,
59 home improvement loan or mortgage loan, or the application
60 requirements, procedures or standards for review and approval of any
61 such loan, or (ii) provide such person with information that is inaccurate
62 or different from the information provided to any other prospective
63 applicant on the basis of such person's race or national origin, 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] applicant or person's own
112 individual complaint and each case resulting from such complaints shall
113 be heard on its own merits unless consolidation of such cases is agreed
114 to by each 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 301 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) (1) Each bank shall, in accordance with the provisions of federal
190 CRA 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 (2) Each bank shall take all reasonable steps consistent with the safe
199 and sound operation of such bank to make residential loan products
200 available in and to advertise such products to its assessment areas,
201 including low and moderate-income neighborhoods and census tracts
202 where the population of racial minorities is greater than fifty per cent.

203 Such residential loan products shall be on terms no less favorable than
204 the residential loan products made available by the bank in census
205 tracks where the population of racial minorities is fifty per cent or less.

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

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

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

231 (g) The commissioner may assess a bank's record of helping to meet
232 the credit needs of its assessment areas under a strategic plan pursuant
233 to federal CRA, provided (1) the strategic plan is filed with the
234 commissioner concurrently with its submission by the bank to a federal

235 financial supervisory agency for approval under federal CRA, and (2)
236 the strategic plan is approved by the commissioner.

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

267 the population of racial minorities is fifty per cent or less.

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.

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