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Summary: Equality in Financial Services Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/5/2024 House Prefiled

 12/5/2024 House Referred to Committee on **Labor, Commerce and Industry**

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3433_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “EQUALITY IN FINANCIAL SERVICES ACT” BY ADDING CHAPTER 31 TO TITLE 37 SO AS TO PROVIDE DEFINITIONS, PROVIDE THAT A FINANCIAL INSTITUTION MAY NOT DISCRIMINATE IN THE PROVISION OF FINANCIAL SERVICES, AND TO PROVIDE REMEDIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Equality in Financial Services Act.”

SECTION 2. (A) Obtaining access to financial services is a basic requirement for a person to meaningfully participate in South Carolina’s marketplace.

 (B) On account of their fundamental role in the marketplace, the South Carolina and United States

governments have given financial institutions significant privileges and have enacted state and federal laws that guarantee access to certain financial services without discrimination based on race, color, religion, national origin, sex, and other factors.

 (C) New banks and other financial institutions face significant barriers to entry that reduce the competitiveness of the market and allow existing institutions to wield significant power.

 (D) Financial institutions should not act as de facto regulators of private conduct by denying financial services based on a person’s religious exercise, association, speech, social views, or participation in a particular industry.

 (E) Financial institutions have a responsibility to make decisions about whether to provide a person with financial services on the basis of impartial criteria free from discrimination or favoritism based on the above factors.

 (F) Financial institutions also have a responsibility to disclose the conditions under which they will deny financial services, and if they deny financial services, to provide upon request a truthful and complete explanation to the person as to why financial services were denied.

 (G) Financial institutions face increasing internal and external pressures to impede otherwise lawful commerce based on a person’s religious exercise, associations, speech, social views, or participation in particular industries, and to do so covertly, without informing the person or the public why services were or will be denied.

 (H) When financial institutions omit material information about when they will deny financial services or why they denied financial services to a person, this lack of transparency harms specific persons and the general marketplace.

 (I) This kind of deception and unfair discrimination in the provision of financial services threatens the economy, security, and the soundness of banking and other financial markets in South Carolina.

 (J) These deceptive and unfairly discriminatory practices threaten the ability of South Carolina’s citizens to speak freely as part of the democratic process and to live freely according to the dictates of their conscience, and these practices also violate the public trust.

SECTION 3. Title 37 of the S.C. Code is amended by adding:

CHAPTER 31

Equality in Financial Services

 Section 37‑31‑10. (A) As used in this chapter:

 (1) “Discriminate in the provision of financial services” means utilizing a social credit score to directly or indirectly decline to provide full and equal enjoyment in the provision of financial services, and includes refusing to provide, terminating, or restricting financial services.

 (2) “Financial institution” means a bank that has total assets over one hundred billion dollars or a payment processor, credit card company, credit card network, payment network, payment service provider, or payment gateway that has processed more than one hundred billion dollars in transactions in the last calendar year. A financial institution includes any affiliate or subsidiary company, even if that company is also a financial institution.

 (3) “Financial service” means any financial product or service offered by a financial institution.

 (4) “Person” means any individual, partnership, association, joint stock company, trust, corporation, nonprofit organization, or other business or legal entity.

 (5) “Protected from government interference” refers to any speech, religious exercise, association, expression, or conduct that is protected by the First Amendment other than activities that the Supreme Court of the United States has expressly held are unprotected as of the date of this legislation, such as obscenity, fraud, incitement, true threats, fighting words, or defamation.

 (6)(a) “Social credit score” means any analysis, rating, scoring, list, or tabulation that evaluates any of the following:

 (i) any person’s exercise of religion that is protected from government interference by the First Amendment to the United States Constitution, Article I, Section 2 of the South Carolina Constitution, 1895, or federal or state law, including all aspects of religious observance and practice, as well as belief and affiliation;

 (ii) any person’s speech, expression, or association that is protected from government

interference by the First Amendment to the United States Constitution or Article I, Section 2 of the South Carolina Constitution, 1895, or federal or state law, including the person’s opinions, speech, or other expressive activities, including the lawful preservation of privacy regarding those activities, such as the refusal to disclose lobbying, political activity, or contributions beyond what is required by applicable state and federal law;

 (iii) failure or refusal to adopt any targets or disclosures related to greenhouse gas emissions beyond what is required by applicable state and federal law;

 (iv) failure or refusal to conduct any type of racial, diversity, or gender audit or disclosure or to provide any sort of quota, preference, or benefit based, in whole or in part, on race, diversity, or gender;

 (v) failure or refusal to facilitate or assist employees in obtaining abortions or gender reassignment services; or

 (vi) except as provided in subitem (b), participation in the following lawful business associations or business activities:

 (A) business activity by the person or others with firearms and ammunition manufacturers or dealers; or

 (B) business activity by the person or others with an oil or gas company.

 (b) For the purposes of item (6)(a)(vi) only, “social credit score” does not include the financial institution evaluating quantifiable financial risks of a person based on impartial, financial‑risk‑based standards that includes activities described in item (6)(a)(vi), if such standards are established in advance by the financial institution and publicly disclosed to customers and potential customers.

 (B) These definitions must be construed in favor of the broad protection of the conduct, opinions, and beliefs protected by the First Amendment to the United States Constitution, applicable federal laws, South Carolina’s Constitution, and state law.

 Section 37‑31‑20. (A) A financial institution may not:

 (1) discriminate in the provision of financial services to a person; or

 (2) agree, conspire, or coordinate, directly or indirectly, including through any intermediary or third party, with another person, or group of persons, to engage in activity prohibited by item (1).

 (B) If a financial institution refuses to provide, restricts, or terminates service to a customer, that customer may request a statement of specific reasons within ninety days after receiving notice of the refusal to provide, restriction of, or termination of service. The customer may request the statement from a customer service representative or designated account representative by phone, U.S. mail, or electronic mail. The financial institution must transmit the statement of specific reasons via U.S. Mail and electronic mail within fourteen days of receiving the customer’s request. The statement of specific reasons must include:

 (1) a detailed explanation of the basis for the denial or termination of service, including a description of any of the customer’s speech, religious exercise, business activity with a particular industry, or other conduct that was, in whole or in part, the basis of the financial institution’s denial or termination of service;

 (2) a copy of the terms of service agreed to by the customer and the financial institution; and

 (3) a citation to the specific provisions of the terms of service upon which the financial institution relied to refuse to provide, restrict, or terminate service.

 Section 37‑31‑30. (A) Any violation of this chapter is a violation of the South Carolina Unfair Trade Practices Act.

 (B) If the Attorney General has reasonable cause to believe that any financial institution has engaged in, is engaging in, or is about to engage in, any violation of this chapter, the Attorney General with the South Carolina Board of Financial Institutions may investigate as provided in Section 34‑1‑60, may bring a civil action as provided in Section 34‑26‑200, and may seek remedies as provided by law.

 (C) Any person harmed by a violation of this chapter may initiate a civil action for either or both of the following:

 (1) to recover actual damages, or ten thousand dollars, whichever is greater for each violation. If the trier of fact finds that the violation was wilful, it may increase the damages to an amount of up to three times the actual damages sustained, or thirty thousand dollars, whichever is greater. A court must award a prevailing plaintiff reasonable attorney’s fees and court costs.

 (2) to obtain preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order as is necessary to enforce the requirements of this chapter.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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