

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

FILED SENATE
Mar 23, 2023
S.B. 369
PRINCIPAL CLERK

S

D

SENATE BILL DRS35136-MU-22

Short Title: Fair Access to Financial Services Act. (Public)

Sponsors: Senators Moffitt, B. Newton, and Hanig (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE FAIR ACCESS TO FINANCIAL SERVICES ACT.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** Chapter 53 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 26.

7 "Fair Access to Financial Services Act.

8 "Part 1. General Provisions.

9 **"§ 53-440. Short title.**

10 This Article may be cited as the Fair Access to Financial Services Act.

11 **"§ 53-441. Definitions.**

12 The following definitions apply in this Article:

13 (1) Administrator. – The North Carolina Administrator of Credit Unions.

14 (2) Commissioner. – The North Carolina Commissioner of Banks.

15 (3) Financial institution. – Either of the following:

16 a. A banking corporation, trust company, savings and loan association,
17 credit union, or other person principally engaged in the business of
18 lending money or receiving or soliciting money on deposit. The term
19 does not include an entity that is chartered or supervised by a federal
20 agency or agency of another state.

21 b. A payment processing platform or credit card company.

22 (4) Person. – Any natural person or any partnership, corporation, or other business
23 or legal entity.

24 (5) Proportionally equal terms. – Terms ensuring that pricing and denial decisions
25 are commensurate with measurable risks based on quantitative and qualitative
26 characteristics.

27 **"§ 53-442. Fair access to financial services.**

28 (a) Fair Access. – A financial institution operating in this State shall make each financial
29 product or service that it offers available on proportionally equal terms to all persons engaged in
30 a lawful activity.

31 (b) Prohibited Conduct. – A financial institution operating in this State shall not deny any
32 person that is engaged in a lawful activity a financial product or service based on a personal,
33 ideological, moral, or political opinion.

34 (c) Policies and Procedures. – A financial institution operating in this State shall include
35 in its written policies and procedures a directive to comply with this Article.

36 "Part 2. Enforcement by Commissioner of Banks.



* D R S 3 5 1 3 6 - M U - 2 2 *

"§ 53-450. Disciplinary action.

(a) After notice and opportunity for a hearing in accordance with Article 3A of Chapter 150B of the General Statutes, if the Commissioner finds that a financial institution chartered or licensed by or registered with the Commissioner has violated this Article, the Commissioner may revoke, suspend, or refuse to renew the financial institution's charter, license, or registration.

(b) The powers vested in the Commissioner by this Article are in addition to any other enforcement powers of the Commissioner.

"§ 53-451. Examinations; charges.

(a) For the purpose of enforcing this Article, the Commissioner may conduct an examination of a financial institution chartered or licensed by or registered with the Commissioner.

(b) A financial institution shall reimburse the Office of the Commissioner of Banks all reasonable costs and expenses of an examination under this section. In unusual circumstances and in the interest of justice, the Commissioner may waive reimbursement for the costs and expenses of an examination under this section.

"§ 53-452. Consumer complaints.

The Commissioner may receive a complaint from a person regarding a financial institution chartered or licensed by or registered with the Commissioner and, upon receipt of the complaint, may examine the financial institution pursuant to G.S. 53-451.

"§ 53-453. Confidentiality.

(a) All information obtained by the Commissioner under this Article is subject to confidential treatment as provided in G.S. 53C-2-7.

(b) Notwithstanding any State law to the contrary, the Commissioner may report enforcement actions under this Article and any other relevant information to the Nationwide Multistate Licensing System and Registry.

(c) The Commissioner may enter into written agreements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies and may share otherwise confidential information pursuant to these agreements.

(d) The requirements of G.S. 53C-2-7 regarding the privacy or confidentiality of any information provided under subsections (b) and (c) of this section, and any privilege arising under any other federal or State law with respect to the information, continues to apply to the information after it has been disclosed to an entity described in subsection (b) or (c) of this section. Information held by the entity is not subject to disclosure under any State law governing the disclosure to the public of information held by an officer or agency of the State. The entities described in subsection (b) or (c) of this section may share information with State and federal regulatory officials without the loss of privilege or the loss of confidentiality protections provided by State and federal law.

"§ 53-454. Rules; appeal by aggrieved person.

(a) The Commissioner may adopt rules to enforce this Article with respect to financial institutions chartered or licensed by or registered with the Commissioner.

(b) Pursuant to G.S. 53C-2-6(b), any person aggrieved by any rule adopted or order issued by the Commissioner may appeal to the State Banking Commission for review upon providing a written notice of appeal within 20 days after the rule was adopted or order was issued. The notice of appeal shall specifically state the grounds for appeal and, in the case of an appeal from a contested case proceeding before the Commissioner, shall set forth in numbered order the assignments of error for review by the State Banking Commission. Failure to specify the assignments of error or failure to comply with the briefing schedule provided by the State Banking Commission constitutes grounds to dismiss the appeal. Any party aggrieved by a decision of the State Banking Commission may petition for judicial review pursuant to G.S. 53C-2-6(b).

1 "Part 3. Enforcement by Administrator of Credit Unions.

2 **"§ 53-460. Disciplinary action.**

3 (a) After notice and opportunity for a hearing in accordance with Article 3A of Chapter
4 150B of the General Statutes, if the Administrator finds that a credit union under the
5 Administrator's supervision has violated this Article, the Administrator may revoke or suspend
6 the credit union's certificate of approval.

7 (b) The powers vested in the Administrator by this Article are in addition to any other
8 enforcement powers of the Administrator.

9 **"§ 53-461. Examinations; charges.**

10 (a) For the purpose of enforcing this Article, the Administrator may conduct an
11 examination of a credit union under the Administrator's supervision.

12 (b) A credit union shall reimburse the Credit Union Division of the Department of
13 Commerce all reasonable costs and expenses of an examination under this section. In unusual
14 circumstances and in the interest of justice, the Administrator may waive reimbursement for the
15 costs and expenses of an examination under this section.

16 **"§ 53-462. Consumer complaints.**

17 The Administrator may receive a complaint from a person regarding a credit union under the
18 Administrator's supervision and, upon receipt of the complaint, may examine the credit union
19 pursuant to G.S. 53-461.

20 **"§ 53-463. Rules.**

21 The Administrator may adopt rules to enforce this Article with respect to credit unions under
22 the Administrator's supervision."

23 **SECTION 2.** This act becomes effective October 1, 2023.