

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 637

By Senators Phillips and Smith

[Introduced February 15, 2023; referred
to the Committee on Banking and Insurance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §31A-9-1, §31A-9-2, §31A-9-3, and §31A-9-4, all relating to the creation of the
 3 Fair Access to Financial Services Act; providing for a short title; providing for definitions;
 4 providing for legislative findings; and providing for enactment of the article.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. FAIR ACCESS TO FINANCIAL SERVICES ACT.

§31A-9-1. Short title.

1 This article shall be known and may be cited as the "Fair Access to Financial Services Act".

§31A-9-2. Legislative findings.

1 The Legislature recognizes the rights of West Virginia residents, including the freedom of
 2 speech and association, and that such rights may be infringed if financial institutions limit access
 3 to financial services for any reason other than objective financial criteria. The protection of the
 4 rights of West Virginia residents and businesses, including financial freedom, is a fundamental
 5 role of government, and any limitations on access to financial services based on
 6 nontraditional criteria not only threatens the rights and proper privileges of West Virginia
 7 residents and businesses, but also is a menace to the institutions and foundation of a free
 8 democratic state and a threat to the peace, order, health, safety, and general welfare of the
 9 state and its residents.

§31A-9-3. Definitions.

1 For purposes of this article, the following definitions apply:

2 (1) "Financial institution" includes any bank, savings bank, savings and loan association,
 3 building and loan association, trust company, mortgage provider, credit union organized under the
 4 laws of this state or organized under the laws of the United States to do business in this state,
 5 money transmitter or other nondepository service provider, and insurance company registered
 6 pursuant to the insurance laws of the state. Financial institution also includes any other
 7 institution that holds and receives deposits, savings, or share accounts, issues certificates of

8 deposit, or provides to its customers any deposit accounts subject to withdrawal by check,
9 instrument, order, or electronic means to effect third-party payments, provides insurance
10 services, or provides investment services;

11 (2) "Financial service" means a financial product or service; and

12 (3) "Person" means any natural person, partnership, corporation, or other business or legal
13 entity.

§31A-9-4. Enactment.

1 (a) To provide fair access to financial services a financial institution shall not, except as
2 otherwise provided in the article:

3 (1) Deny any person a financial service the financial institution offers except to the extent
4 justified by such person's documented failure to meet quantitative, impartial, and risk-based
5 financial standards established in advance by the financial institution;

6 (2) Deny any person a financial service the financial institution offers, aside from what is
7 otherwise provided in this article, when the effect of the denial is to prevent, limit, or otherwise
8 disadvantage the person:

9 (A) From entering or competing in a market or business segment; or

10 (B) In such a way that benefits another person or business activity in which the financial
11 institution has a financial interest; and

12 (C) Deny, in coordination with another person, any person a financial service the financial
13 institution offers.

14 (b) A financial institution that utilizes standards or guidelines based on nonfinancial,
15 nontraditional, and subjective measures such as environmental, social, and governance criteria,
16 or political and ideological factors shall:

17 (1) Disclose to any state or federal authorities that oversee the financial institution the
18 specific standards, guidelines, and criteria used by the financial institution to determine access or
19 denial of a financial service to a person in this state;

20 (2) Disclose and inform the financial institution and the person seeking financial services
21 the specific rules, regulations, and policy associated with environmental, social, and governance
22 that were used to deny financial services;

23 (3) Comply with any rules and regulations adopted and promulgated by any state or federal
24 authorities that oversee the financial institution; and

25 (4) Disclose to any person denied a financial service the specific data, information, criteria,
26 and standards used to support such denial. Such disclosure shall be in bold 14-point font.

NOTE: The purpose of this bill is to create the "Fair Access to Financial Services Act". The bill provides for a short title. The bill provides for legislative findings. Finally, the bill provides for enactment of the article.

Strikethroughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.