

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 663

By Senator Azinger

[Reported March 13, 2025, from the Committee on
Banking and Insurance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §46A-6O-1, §46A-6O-2, §46A-6O-3, §46A-6O-4, and §46A-6O-5, relating to
3 creating the Fair Access to Financial Services Act; providing a short title; providing
4 definitions; prohibiting discrimination by financial institutions; requiring transparency upon
5 request; authorizing enforcement by certain persons and Attorney General; specifying
6 penalties for violations and for recovery of attorney fees and litigation costs; and
7 establishing statute of limitations.

Be it enacted by the Legislature of West Virginia:

CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.

ARTICLE 6O. FAIR ACCESS TO FINANCIAL SERVICES ACT.

§46A-6O-1. Short title.

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

§46A-6O-2. Definitions.

1 (a) For purposes of this article:

2 (1) "Discriminatory factor" means any factor that negatively affects one or more of the
3 following:

4 (A) Any right protected under the Constitution of the United States or the State of West
5 Virginia;

6 (B) A person's engagement in lawful commercial activity, unless the financial institution's
7 decision is based solely on objective, quantitative, impartial, and risk-based factors;

8 (C) A person's exercise of conscience rights to not provide for or assist with an employee
9 obtaining an abortion as defined in §16-2F-2 of this code or any gender transition service;

10 (D) A person's failure or refusal to adopt any targets or disclosures related to greenhouse
11 gas emissions beyond what is required by applicable state and federal law; or

(E) A person's 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.

(2) "Financial institution" means:

(A) A financial institution as defined in §31A-1-2(n) of this code that has total assets of \$100 billion dollars or more, including any affiliate or subsidiary of such financial institution; or

(B) A payment processor, credit card company, credit card network, payment network, payment service provider, or payment gateway that processed \$100 billion dollars or more in transactions during the prior calendar year, including any affiliate or subsidiary of such entity.

(3) "Person" includes any individual, group, or legal entity.

§46A-6O-3. Discrimination in financial services prohibited; exceptions.

(a) Unless otherwise explicitly required by federal or West Virginia law or regulation, it shall be an unlawful practice for any financial institution to refuse to provide financial services, to stop providing financial services, or to otherwise limit the provision of financial services to a person based on a discriminatory factor, or to agree, conspire, or coordinate, directly or indirectly, including through any intermediary or third party, with another person to engage in activity prohibited by this section.

(b) This article does not prohibit a financial institution from refusing to provide financial services, stopping to provide financial services, or otherwise limiting the provision of financial services to a person that the financial institution has a reasonable and good-faith belief is engaged in fraud, criminal conduct, or incitement to unlawful action.

§46A-6O-4. Transparency required upon request.

(a) Within 30 days of receipt of a written request by any person to whom a financial institution refused to provide financial services, stopped providing financial services, or otherwise limited the provision of financial services, the financial institution shall, unless explicitly prohibited by federal or West Virginia law or regulation, respond in writing and disclose the objective,

quantitative, impartial, and risk-based factors on which the financial institution's actions were based. The financial institution's response shall cite any legal authorities and terms of service on which it relies. If the financial institution relies on terms of service or other documents, the financial institution shall make such terms and documents available for review with its response.

(b) Nothing in this section requires a financial institution to disclose confidential or proprietary information in relation to its underwriting standards or policies not made available to the general public.

§46A-6O-5. Enforcement; attorney fees and costs; statute of limitations.

(a) Any person who suffered an ascertainable loss of money or property, real or personal, as a result of a violation of this article may bring a cause of action to recover actual damages or \$10,000, whichever is greater, for each violation of this article and seek equitable relief, including a permanent or temporary injunction, restraining order, or other order as necessary to enforce the requirements of this article.

(b) If the Attorney General has reasonable cause to believe that a financial institution has engaged in, is engaging in, or is about to engage in any violation of this article, the Attorney General may investigate, bring a civil action, and seek any and all remedies set forth in §46A-7-101 *et seq.* of this code. The grant of powers to the Attorney General in this article does not affect remedies available to persons under this article.

(c) If a person or the Attorney General prevails against a financial institution for a violation of §46A-6O-3 of this code, the person or the Attorney General shall be entitled to recover reasonable attorney fees and litigation costs from the financial institution. If the trier of fact finds by clear and convincing evidence that the claims brought under this article were frivolous, then the financial institution may recover reasonable attorney fees and litigation costs from the plaintiff.

(d) Any civil action under this article shall be commenced no more than two years after the date of the alleged violation.