

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1049

5 By: Representative S. Meeks
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING FINANCIAL
9 INSTITUTIONS; TO ESTABLISH THE FAIR ACCESS TO
10 FINANCIAL SERVICES ACT; TO PROTECT THE FINANCIAL
11 FREEDOM OF ARKANSAS CITIZENS AND BUSINESSES; TO
12 PROVIDE FOR PENALTIES AND ENFORCEMENT; AND FOR OTHER
13 PURPOSES.
14
15

Subtitle

16 TO ESTABLISH THE FAIR ACCESS TO FINANCIAL
17 SERVICES ACT; AND TO PROTECT THE
18 FINANCIAL FREEDOM OF ARKANSAS CITIZENS
19 AND BUSINESSES.
20
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 23, Chapter 32, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 6 – Fair Access to Financial Services Act
28

29 23-32-601. Title.

30 This subchapter shall be known and may be cited as the "Fair Access to
31 Financial Services Act".
32

33 23-32-602. Legislative findings.

34 The General Assembly finds that:

35 (1) Arkansas citizens have the right to freedom of speech and
36 freedom of association;



1 (2) The right to freedom of speech and freedom of association
 2 may be infringed if financial institutions limit access to financial services
 3 for any reason other than objective financial criteria;

4 (3) The protection of the rights of Arkansas citizens and
 5 businesses, including financial freedom, is a fundamental role of government;
 6 and

7 (4) Any limitations on access to financial services based on
 8 subjective or nonfinancial criteria could:

9 (A) Threaten the rights and proper privileges of Arkansas
 10 citizens and businesses;

11 (B) Be a menace to the institutions and the foundation of
 12 a free democratic state; and

13 (C) Pose a threat to the peace, order, health, safety, and
 14 general welfare of this state and its inhabitants.

15
 16 23-32-603. Definitions.

17 As used in this subchapter:

18 (1) "Depository institution" means:

19 (A) A depository institution as defined in 12 U.S.C. §
 20 1813(c)(1), as it existed on January 1, 2023; or

21 (B) An insured credit union as defined in 12 U.S.C. §
 22 1752(7), as it existed on January 1, 2023;

23 (2)(A) "Financial institution" means a:

24 (i) Depository institution;

25 (ii) Trust company;

26 (iii) Savings bank; or

27 (iv) Person subject to the jurisdiction of the:

28 (a) United States Securities and Exchange
 29 Commission;

30 (b) Bank Commissioner under the Arkansas
 31 Banking Code of 1997, chapters 45-50 of this title;

32 (c) Securities Commissioner under the Arkansas
 33 Securities Act, § 23-42-101 et seq.; or

34 (d) Insurance Commissioner under the Arkansas
 35 Insurance Code.

36 (B) "Financial institution" includes any other institution

1 that:

2 (i) Holds and receives deposits, savings, or share
 3 accounts;

4 (ii) Issues certificates of deposit;

5 (iii) Provides to its customers any deposit accounts
 6 subject to withdrawal by check, instrument, order, or electronic means to
 7 effect third-party payments;

8 (iv) Provides insurance services; or

9 (v) Provides investment services;

10 (3) "Financial services" means a financial product or service;

11 (4) "Person" means:

12 (A) A natural person;

13 (B) A partnership;

14 (C) A corporation; or

15 (D) Any other business or legal entity;

16 (5) "Savings bank" means a savings association or federal
 17 savings association as defined in 12 U.S.C. § 1462, as it existed on January
 18 1, 2023;

19 (6) "State authority" means the entity that oversees a financial
 20 institution; and

21 (7) "Trust company" means:

22 (A) A national bank engaged in activities in a fiduciary
 23 capacity under 12 U.S.C. § 92a and 12 C.F.R. Part 9;

24 (B) A trust company as defined in § 23-51-102; or

25 (C) An interstate bank that is authorized under the
 26 Arkansas Banking Code of 1997, chapters 45-50 of this title, to exercise the
 27 powers of a trust company in this state.

28
 29 23-32-604. Right to fair access to financial services.

30 (a) Except as provided in this subchapter, in order to provide fair
 31 access to financial services, a financial institution shall not deny a
 32 person:

33 (1) A financial service that the financial institution offers
 34 except to the extent justified by the person's documented failure to meet
 35 qualitative, impartial risk-based financial standards that were established
 36 in advance by the financial institution;

1 (2) A financial service that the financial institution offers,
 2 other than as provided in subdivision (a)(1) of this section, if the effect
 3 of the denial is to prevent, limit, or otherwise disadvantage the person:

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

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

8 (3) In coordination with another person, any financial service
 9 the financial institution offers.

10 (b) A financial institution shall not utilize standards or guidelines
 11 based on nonfinancial, nontraditional, and subjective measures, including
 12 without limitation environmental, social, and governance criteria; diversity,
 13 equity, and inclusive policies; or political and ideological factors.

14
 15 23-32-605. Violation of Deceptive Trade Practices Act – Enforcement –
 16 Penalties.

17 (a) A violation of this subchapter is an unfair and deceptive act or
 18 practice, as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

19 (b) All remedies, penalties, and authority granted to the Attorney
 20 General under the Deceptive Trade Practices Act, § 4-88-101 et seq., shall be
 21 available to the Attorney General for the enforcement of this subchapter.

22 (c) A person that is harmed by a violation of this subchapter may file
 23 a civil action to enjoin a violation of this subchapter.

24 (d) Notwithstanding civil enforcement under subsection (a) or
 25 subsection (b) of this section, it shall be a Class A misdemeanor for a
 26 financial institution to commit five (5) or more violations of this
 27 subchapter.

28
 29 23-32-606. Rules.

30 A state authority may promulgate rules necessary to implement and
 31 administer this subchapter.

32
 33 SECTION 2. DO NOT CODIFY. EFFECTIVE DATE. This act is effective on
 34 and after January 1, 2024.