



2024 South Dakota Legislature

House Bill 1247

Introduced by: **Representative Auch**

1 **An Act to provide consumer protection through fair access to financial and insurance**
 2 **products and services.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to chapter 51A-1:**

5 Terms used in this Act mean:

6 (1) "Financial institution," any state or national bank, credit union, savings and loan
 7 association, trust company, or other entity that is engaged in the business of
 8 accepting deposits, making loans, or providing other financial services and that is
 9 chartered, licensed, or regulated under chapter 51A or federal law; and

10 (2) "Unsafe or unsound practice," means:

11 (a) Any practice or conduct found to be contrary to generally accepted
 12 standards applicable to a financial institution or a violation of any prior
 13 agreement in writing or order of a state or federal regulatory agency, which
 14 practice, conduct, or violation creates the likelihood of loss, insolvency, or
 15 dissipation of assets or otherwise prejudices the interest of the financial
 16 institution or its depositors or members;

17 (b) A failure to comply with sections 2 to 7, inclusive, of this Act; or

18 (c) A practice described in sections 2 to 7, inclusive, of this Act.

19 **Section 2. That a NEW SECTION be added to chapter 51A-1:**

20 A financial institution must make a determination about the provision or denial of
 21 services based on an analysis of risk factors unique to each current or prospective
 22 customer or member and may not engage in an unsafe or unsound practice as provided
 23 in sections 1 to 7, inclusive, of this Act.

1 This section does not restrict a financial institution that claims a religious purpose
2 from making these determinations based on the current or prospective customer's or
3 member's religious beliefs, religious exercise, or religious affiliations.

4 **Section 3. That a NEW SECTION be added to chapter 51A-1:**

5 It is an unsafe or unsound practice for a financial institution to deny or cancel its
6 services to a person, or to otherwise discriminate against a person in making available
7 such services or in the terms or conditions of such services, on the basis of:

8 (1) The person's political opinions, speech, or affiliations;

9 (2) The person's religious beliefs, religious exercise, or religious affiliations, except as
10 provided in section 2 of this Act;

11 (3) Any factor if it is not a quantitative, impartial, and risk-based standard, including
12 any factor related to the person's business sector; or

13 (4) The use of any rating, scoring, analysis, tabulation, or action that considers a social
14 credit score based on factors including, but not limited to:

15 (a) The person's political opinions, speech, or affiliations;

16 (b) The person's religious beliefs, religious exercise, or religious affiliations;

17 (c) The person's lawful ownership of a firearm;

18 (d) The person's engagement in the lawful manufacture, distribution, sale,
19 purchase, or use of firearms or ammunition;

20 (e) The person's engagement in the exploration, production, utilization,
21 transportation, sale, or manufacture of fossil fuel-based energy, timber,
22 mining, or agriculture;

23 (f) The person's support of the state or federal government in combatting
24 illegal immigration, drug trafficking, or human trafficking; or

25 (g) The person's engagement with, facilitation of, employment by, support of,
26 business relationship with, representation of, or advocacy for any person
27 described in this section.

28 **Section 4. That a NEW SECTION be added to title 51:**

29 It is an unsafe and unsound practice for a financial institution to deny or cancel its
30 services to a person, or to otherwise discriminate against a person in making available
31 services or in the terms or conditions of services on the basis of the person's failure to
32 meet or commit to meet, or expected failure to meet, any of the following as long as the
33 person is in compliance with applicable state or federal law:

- 1 (1) Environmental standards, including emissions standards, benchmarks,
2 requirements, or disclosures;
- 3 (2) Social governance standards, benchmarks, or requirement, including, but not
4 limited to, environmental or social justice;
- 5 (3) Corporate board or company employment composition standards, benchmarks,
6 requirements, or disclosures based on characteristics protected under state law;
7 or
- 8 (4) Policies or procedures requiring or encouraging employee participation in social
9 justice programming, including, but not limited to, diversity, equity, or inclusion
10 training.

11 **Section 5. That a NEW SECTION be added to chapter 51A-1:**

12 Beginning September 30, 2024, and by December thirty-first of each year
13 thereafter, a financial institution subject to title 51A must attest, under penalty of perjury,
14 on a form prescribed by the Division of Banking, whether the entity is acting in compliance
15 with sections 1 to 7, inclusive, of this Act.

16 **Section 6. That a NEW SECTION be added to chapter 51A-1:**

17 In making a determination that a financial institution participated in an unsafe or
18 unsound practice, the Division of Banking must consider the size and condition of the
19 financial institution, the gravity of the violation, and the prior conduct of the person or
20 institution involved.

21 **Section 7. That a NEW SECTION be added to chapter 51A-1:**

22 Engaging in a practice described in section 4 of this Act or failing to timely provide
23 the attestation under section 5 of this Act is a failure to comply with this chapter and is
24 subject to the applicable sanctions and penalties provided for in title 51A.

25 **Section 8. That § 58-33-67 be AMENDED:**

26 **58-33-67.** In dealing with the insured or representative of the insured, unfair or
27 deceptive acts or practices in the business of insurance include, but are not limited to, the
28 following:

- 1 (1) Failing to acknowledge and act within thirty days upon communications with
2 respect to claims arising under insurance policies and to adopt and adhere to
3 reasonable standards for the prompt investigation of such claims;
- 4 (2) Making claims payments to any claimant, insured, or beneficiary not accompanied
5 by a statement setting forth the coverage under which the payments are being
6 made;
- 7 (3) Failing to promptly provide a reasonable explanation of the basis in the insurance
8 policy in relation to the facts or applicable law for denial of a claim or for the offer
9 of a compromise settlement;
- 10 (4) Failing to promptly settle claims, where liability has become reasonably clear under
11 one portion of the insurance policy coverage to influence settlements under other
12 portions of the insurance policy coverage;
- 13 (5) Requiring as a condition of payment of a claim that repairs to any damaged vehicle
14 shall be made by a particular contractor or repair shop;
- 15 (6) Failing to make a good faith assignment of the degree of contributory negligence
16 in ascertaining the issue of liability;
- 17 (7) Unless permitted by law and the insurance policy, refusing to settle a claim of an
18 insured or claimant on the basis that the responsibility should be assumed by
19 others; and
- 20 (8) Refusing to insure or charging a different rate solely in consideration of the risks
21 relating to environmental, social, and governance criteria, including diversity,
22 equity, and inclusion policies, or political and ideological factors, unless the refusal
23 or different rate is the result of the application of sound underwriting and actuarial
24 principles related to actual or reasonably anticipated loss experience.