



## 2026 South Dakota Legislature

# House Bill 1224

Introduced by: **Representative Lems**

1 **An Act to protect persons from discrimination by financial institutions.**

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

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

4 Terms used in this chapter mean:

5 (1) "Adverse action," a decision to directly or indirectly decline or refuse to provide,  
6 terminate, or restrict full and equal enjoyment in the provision of covered financial  
7 services;

8 (2) "Covered financial service," any service related to a checking account, savings  
9 account, or other depository account; money transmission; or a personal loan,  
10 mortgage, business loan, or credit card; but not including the provision of  
11 insurance or the underwriting of, or investment in, a security as defined under  
12 federal law;

13 (3) "Discriminate in the provision of covered financial services," taking an adverse  
14 action against a person based on the person's:

15 (a) Exercise of religion, which is protected by the First Amendment to the  
16 United States Constitution;

17 (b) Speech, expression, opinions, expressive activity, or association, which are  
18 protected by the First Amendment to the United States Constitution, and  
19 the lawful preservation of privacy regarding those activities; or

20 (c) Participation in lawful economic activity; and

21 (4) "Financial institution," a bank, as defined in § 51A-1-2, or any payment processor,  
22 credit card company, credit card network, payment network, payment service  
23 provider, or payment gateway, which has processed more than one hundred billion  
24 dollars in transactions in the last calendar year, including any parent company,  
25 holding company, affiliate, or subsidiary company.

26 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

1 A person may, within ninety days of a financial institution's adverse action against  
2 the person, request a statement from the financial institution specifying the reason for the  
3 adverse action. The person may request the statement, electronically or by telephone or  
4 mail, from any customer service representative or designated account representative of  
5 the institution.

6 Unless otherwise prohibited by federal law, the financial institution shall transmit  
7 the statement, electronically or by mail, to the requesting person within thirty days of  
8 receipt of the request.

9 The statement must include a specific description of each reason for the adverse  
10 action. Stating that the adverse action was based on the institution's internal policies or  
11 standards or that the person failed to achieve a qualifying score on the institution's credit  
12 scoring system is insufficient. The statement must provide whether any criteria listed in  
13 subdivision (3) of section 1 of this Act factored into the institution's decision to take an  
14 adverse action.

15 An adverse action statement consistent with the requirements of the Equal Credit  
16 Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive (January 1, 2026), satisfies the  
17 requirements of this section, provided that if any activity described in subdivision (3) of  
18 section 1 of this Act factored into the institution's decision to take an adverse action, it  
19 must be described in a separate statement that is provided to the customer  
20 contemporaneously with the adverse action statement.

21 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

22 A financial institution may not:

- 23 (1) Discriminate in the provision of covered financial services to a person;  
24 (2) Agree, conspire, or coordinate, directly or indirectly, including through any  
25 intermediary or third party, with another person, or group of persons, to engage  
26 in activity to discriminate in the provision of covered financial services; or  
27 (3) Provide false or intentionally misleading information in a statement required  
28 pursuant to section 2 of this Act.

29 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

30 It is not a violation of this chapter for a financial institution to take any of the  
31 following actions, provided that the action is taken in good faith and not motivated by  
32 animus or a desire or intent to discriminate in the provision of covered financial services:

- 33 (1) A change in the terms of an account expressly agreed to by a customer;

- 1       (2) Any action or forbearance relating to an account taken in connection with inactivity,  
2       default, or delinquency of the account;
- 3       (3) A refusal to provide services because applicable federal or state law prohibits the  
4       covered financial institution from providing the service requested;
- 5       (4) A refusal to provide a service because the covered financial institution does not  
6       offer the type of service requested; or
- 7       (5) A decision based solely on any of the following valid business factors, if made in  
8       an impartial manner and in good faith:
- 9           (a) Maximizing profitability or shareholder value, provided this determination is  
10          not based on a desire to obtain a benefit or avoid harm imposed by another  
11          person because the covered financial institution served a customer;
- 12          (b) Complying with legitimate legal or regulatory requirements; or
- 13          (c) Maintaining the safety and soundness of a covered financial institution or  
14          its employees.

15       **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

16           Any violation of this chapter is a deceptive trade practice pursuant to the provisions  
17       of chapter 37-24.

18       **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 51A:**

19           The attorney general, a state's attorney, or any person harmed by a financial  
20       institution's violation of this chapter may bring a civil action against the financial institution  
21       for:

- 22          (1) Actual damages, or ten thousand dollars, whichever is greater, for each violation;  
23          (2) Injunctive relief; and  
24          (3) Reasonable attorney fees and court costs.

25           Upon finding that the institution's violation was willful, the court may award treble  
26       damages. If the institution proves, by clear and convincing evidence, that the plaintiff filed  
27       a civil action pursuant to this section in bad faith, the court may award reasonable attorney  
28       fees and court costs to the institution.