

3

5

6

7

8

9

10

17

19

20

21

22

23

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.

- 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:

Terms used in this Act mean:

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

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

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

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

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

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

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

(2) The person's religious beliefs, religious exercise, or religious affiliations, except as

- provided in section 2 of this Act;

 (3) Any factor if it is not a quantitative, impartial, and risk-based standard, including
- (3) Any factor if it is not a quantitative, impartial, and risk-based standard, including any factor related to the person's business sector; or
- (4) The use of any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to:
 - (a) The person's political opinions, speech, or affiliations;
 - (b) The person's religious beliefs, religious exercise, or religious affiliations;
 - (c) The person's lawful ownership of a firearm;
 - (d) The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition;
 - (e) The person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture;
 - (f) The person's support of the state or federal government in combatting illegal immigration, drug trafficking, or human trafficking; or
 - (g) The person's engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this section.

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

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

1	<u>(1)</u>	Environmental st	andards,	including	emissions	standards,	benchmarks,
2		requirements, or di	sclosures;				
3	<u>(2)</u>	Social governance	standards	, benchmar	ks, or requi	rement, inclu	ıding, but not
4		limited to, environn	nental or s	ocial justice	<u>;</u>		
5	<u>(3)</u>	Corporate board or	company	<u>employme</u>	nt compositi	on standards	, benchmarks,
6		requirements, or di	sclosures	based on ch	<u>naracteristics</u>	protected un	der state law;
7		<u>or</u>					
8	<u>(4)</u>	Policies or procedu	res requir	ing or enco	uraging emp	loyee particip	ation in social
9		justice programmin	g, includir	ng, but not	<u>limited to, di</u>	versity, equit	<u>y, or inclusion</u>
10		<u>training.</u>					
11	Section	5. That a NEW SECT	ΓΙΟΝ be a	idded to ch	apter 51A-:	L:	
12		Beginning Septeml	per 30, 2	2024, and I	by Decembe	r thirty-first	of each year
13	there	after, a financial instit	-	•	•	•	•
14	on a f	orm prescribed by the	e Division o	of Banking, v	whether the e	entity is acting	in compliance
15	with s	sections 1 to 7, inclus	ive, of this	s Act.			
16	Section	6. That a NEW SECT	ΓΙΟΝ be a	idded to ch	apter 51A-:	L:	
16 17	Section	6. That a NEW SECT			-		n an unsafe or
			nination th	at a financia	al institution	participated i	
17	unsou	In making a determ	nination th	at a financia anking mus	al institution t consider th	participated in	ondition of the
17 18	<u>unsou</u> financ	In making a determund practice, the Div	nination th	at a financia anking mus	al institution t consider th	participated in	ondition of the
17 18 19	unsou finand institu	In making a determund practice, the Divicial institution, the gr	nination th ision of Ba ravity of th	at a financia anking musine violation,	al institution t consider th and the pri	participated in e size and co or conduct of	ondition of the
17 18 19 20	unsou finand institu	In making a determ und practice, the Divicial institution, the grution involved.	nination th ision of Ba ravity of th	at a financia anking musine violation, added to ch	al institution t consider th and the price	participated in e size and conduct of	ondition of the the person or
17 18 19 20 21	unsou finand institu Section	In making a determ und practice, the Divicial institution, the grution involved. 7. That a NEW SECT	nination the ision of Baravity of the FION be a ice describe	at a financian anking must ne violation, added to choose in section	al institution t consider th and the price napter 51A-:	participated in e size and conduct of the conduct o	the person or
17 18 19 20 21	unsou finance institu Section	In making a determing a determing practice, the Dividual institution, the gration involved. 7. That a NEW SECTION AND ADDRESS	nination the ision of Baravity of the ravity	nat a financial anking must ne violation, added to choosed in section is Act is a fi	al institution t consider th and the price napter 51A-: n 4 of this Academic to com	participated in e size and control of conduct of the conduct of th	the person or
17 18 19 20 21 22 23	unsou finance institu Section the a subje	In making a determing a determing practice, the Dividual institution, the gration involved. 7. That a NEW SECT Engaging in a practitestation under sections.	nination the ision of Baravity of the ravity	nat a financial anking must ne violation, added to choosed in section is Act is a find penalties	al institution t consider th and the price napter 51A-: n 4 of this Academic to com	participated in e size and control of conduct of the conduct of th	the person or
17 18 19 20 21 22 23 24	unsou finance institu Section the a subje	In making a determined practice, the Divided institution, the gration involved. 7. That a NEW SECT Engaging in a practitestation under section to the applicable satisfaction of the section of the sect	ravity of the first of the firs	nat a financial anking must be violation, and ded to choosed in section is Act is a find penalties DED:	al institution t consider th and the price napter 51A-: n 4 of this Academic to comprovided for	participated in e size and control of conduct of the conduct of th	the person or the timely provide chapter and is
17 18 19 20 21 22 23 24	unsou finance institu Section the a subjection	In making a determined practice, the Divided institution, the gration involved. 7. That a NEW SECT Engaging in a practice testation under section to the applicable section in the sectio	nination the ision of Baravity of the ITON be a ice describe on 5 of the inctions are be AMEN and with the inches with the inches are the ice described by the inches are the ice described by the ice described by the ice and ice an	nat a financial anking must a financial must be violation, added to characteristics and penalties between the	al institution t consider th and the price napter 51A-: n 4 of this Accailure to com provided for	participated in e size and control of conduct of the conduct of the institute of the instit	the person or the the person or timely provide chapter and is ured, unfair or

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 Requiring as a condition of payment of a claim that repairs to any damaged vehicle (5) 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 Unless permitted by law and the insurance policy, refusing to settle a claim of an (7) 18 insured or claimant on the basis that the responsibility should be assumed by 19 others; and 20 Refusing to insure or charging a different rate solely in consideration of the risks (8) 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.