

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1049

By: Representative S. Meeks

## For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING FINANCIAL INSTITUTIONS; TO ESTABLISH THE FAIR ACCESS TO FINANCIAL SERVICES ACT; TO PROTECT THE FINANCIAL FREEDOM OF ARKANSAS CITIZENS AND BUSINESSES; TO PROVIDE FOR PENALTIES AND ENFORCEMENT; AND FOR OTHER PURPOSES.

## Subtitle

TO ESTABLISH THE FAIR ACCESS TO FINANCIAL SERVICES ACT; AND TO PROTECT THE FINANCIAL FREEDOM OF ARKANSAS CITIZENS AND BUSINESSES.

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

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

Subchapter 6 – Fair Access to Financial Services Act

23-32-601. Title.

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

23-32-602. Legislative findings.

The General Assembly finds that:

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



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

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

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

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

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

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

23-32-603. Definitions.

As used in this subchapter:

(1) "Depository institution" means:

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

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

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

(i) Depository institution;

(ii) Trust company;

(iii) Savings bank; or

(iv) Person subject to the jurisdiction of the:

(a) United States Securities and Exchange Commission;

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

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

(d) Insurance Commissioner under the Arkansas Insurance Code.

(B) "Financial institution" includes any other institution

that:

- (i) Holds and receives deposits, savings, or share accounts;
- (ii) Issues certificates of deposit;
- (iii) Provides to its customers any deposit accounts subject to withdrawal by check, instrument, order, or electronic means to effect third-party payments;
- (iv) Provides insurance services; or
- (v) Provides investment services;
- (3) "Financial services" means a financial product or service;
- (4) "Person" means:
  - (A) A natural person;
  - (B) A partnership;
  - (C) A corporation; or
  - (D) Any other business or legal entity;
- (5) "Savings bank" means a savings association or federal savings association as defined in 12 U.S.C. § 1462, as it existed on January 1, 2023;
- (6) "State authority" means the entity that oversees a financial institution; and
- (7) "Trust company" means:
  - (A) A national bank engaged in activities in a fiduciary capacity under 12 U.S.C. § 92a and 12 C.F.R. Part 9;
  - (B) A trust company as defined in § 23-51-102; or
  - (C) An interstate bank that is authorized under the Arkansas Banking Code of 1997, chapters 45-50 of this title, to exercise the powers of a trust company in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

23-32-606. Rules.

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

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