

SENATE, No. 1189

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Prohibits mortgage loan discrimination based on familial status.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning mortgage loan discrimination and
2 supplementing Title 17 of the Revised Statutes.

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4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. As used in this act:

8 "Commissioner" means the Commissioner of Banking and
9 Insurance.

10 "Depository institution" means any banking institution as defined
11 in section 1 of "The Banking Act of 1948," P.L.1948, c.67
12 (C.17:9A-1), any association as defined in the "Savings and Loan
13 Act (1963)," P.L.1963, c.144 (C.17:12B-1 et seq.), and any State or
14 Federal credit union.

15 "Familial status" means being the natural parent of a child, the
16 adoptive parent of a child, the resource family parent of a child,
17 having a parent and child relationship with a child as defined by
18 State law, or having sole or joint legal or physical custody, care,
19 guardianship, or visitation with a child, or any person who is
20 pregnant or is in the process of securing legal custody of any
21 individual who has not attained the age of 18 years.

22 "Mortgage loan" means a loan which is secured by residential
23 real property or a home improvement loan.

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25 2. A depository institution that makes a mortgage loan in this
26 State shall not discriminate against any person in making available
27 that mortgage loan, or in the terms or conditions of that mortgage
28 loan, based on a person's familial status.

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30 3. Any person who has been discriminated against as a result of
31 a violation of section 2 of this act may bring an action in New
32 Jersey in a court of competent jurisdiction. Upon finding that a
33 depository institution is in violation of this act, the court may award
34 actual damages, reasonable attorneys' fees, and court costs.

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36 4. The commissioner shall have the power to:

37 a. Make such investigations into any matter pertaining to this
38 act, including the power to hold hearings and issue subpoenas to
39 compel the attendance of witnesses and the production of evidence.
40 In case of a failure of any person to comply with any subpoena, the
41 Superior Court may issue an order requiring the attendance of such
42 person and the giving of testimony or production of evidence. Any
43 person failing to obey the court's order may be punished for
44 contempt.

45 b. Order an institution found to be in violation of this act to
46 cease its unlawful practices, subject to review, hearing, and relief in
47 the Superior Court. A depository institution which continues to
48 violate the provisions of this act after having been ordered by the

1 commissioner to cease such practices shall be liable to a penalty of
2 \$10,000 for each offense. The penalty may be collected in a
3 summary proceeding pursuant to the "Penalty Enforcement Law of
4 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The penalty provided
5 by this section shall be in addition to and not in lieu of any other
6 provision of law applicable upon a depository institution's failure to
7 comply with an order of the commissioner.

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9 5. The commissioner may adopt, pursuant to provisions of the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), rules and regulations necessary to effectuate the provisions of
12 this act.

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14 6. This act shall take effect immediately.

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17 STATEMENT

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19 This bill prohibits depository institutions that make mortgage
20 loans in this State from discriminating against any person in making
21 available a mortgage loan, or in the terms or conditions of a
22 mortgage loan, because of that person's familial status.

23 The bill defines "familial status" as being the natural parent of a
24 child, the adoptive parent of a child, the resource family parent of a
25 child, having a "parent and child relationship" with a child as
26 defined by State law, or having sole or joint legal or physical
27 custody, care, guardianship, or visitation with a child, or any person
28 who is pregnant or is in the process of securing legal custody of any
29 individual who has not attained the age of 18 years.

30 The bill provides that any person who has been discriminated
31 against in violation of the bill may bring an action in New Jersey in
32 a court of competent jurisdiction. Upon finding that a depository
33 institution is in violation, the court may award actual damages,
34 reasonable attorneys' fees, and court costs.

35 The bill also empowers the Commissioner of Banking and
36 Insurance to make such investigations into any matters pertaining to
37 the bill, including the power to hold hearings and issue subpoenas
38 to compel the attendance of witnesses and the production of
39 evidence. The commissioner may also order institutions found to
40 be in violation to cease any unlawful practices, subject to review,
41 hearing, and relief in the Superior Court.