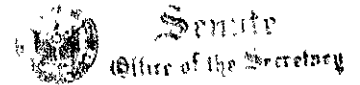


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



15 OCT 14 P3:39

SENATE
S. No. 2992

RECEIVED BY: *J*

Introduced by Senator Miriam Defensor Santiago

EQUAL CREDIT OPPORTUNITY ACT

EXPLANATORY NOTE

The activities of the country's leading institutions are regulated by the General Banking Law, the Central Banking Act, pertinent provisions of the New Civil Code, and such special laws as the Truth in Lending Act. In all these laws, nowhere is it provided that financial institutions and other firms engaged in the extension of credit must make credit available with fairness, impartiality, and without discrimination on the basis of sex, marital status, race, creed, religion, or age.

This bill seeks to fill the gap in existing laws by requiring the country's financial institutions and other firms engaged in the extension of credit to make equally available to all credit worthy customers without regard to sex, marital status, national origin, religion, or age. A regime of equality credit extension will enhance economic stability. It will also foster friendly competition among the various financial institutions and other firms engaged in the extension of credit.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed during the Thirteenth Congress, First Regular Session.



15 OCT 14 P3:40

SENATE
S. No. 2992

RECEIVED BY: *[Signature]*

Introduced by Senator Miriam Defensor Santiago

EQUAL CREDIT OPPORTUNITY ACT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Short Title.* – This Act shall be known as the “Equal Credit
2 Opportunity Act.”

3 SECTION 2. *Declaration of Policy.* – It is hereby declared a state policy to
4 enhance economic stability and foster competition among the country’s financial
5 institutions by requiring these and other firms engaged in the extension of credit to make
6 credit equally available to all credit-worthy customers with fairness, impartiality, and
7 without discrimination.

8 SECTION 3. *Definition of Terms.* – In this Act, the term –

9 (A) “Adverse action” means a denial or revocation of credit, a change in the
10 terms of an existing credit arrangement, or a refusal to grant credit in substantially the
11 amount or on substantially the terms requested. Such term does not include a refusal to
12 extend additional credit under an existing credit arrangement where the applicant is
13 delinquent or otherwise in default, or where such additional credit would exceed a
14 previously established credit limit;

15 (B) “Applicant” means any person who applies to a creditor directly for an
16 extension, renewal or continuation of credit, or applies for a credit indirectly by use of an
17 existing credit plan for an amount exceeding a previously established credit limit;

1 (C) "Board" refers to the Central Monetary Board;

2 (D) "Credit" means the right granted by a creditor to a debtor to defer payment
3 of debt or incur debt and defer its payment or to purchase property or services and defer
4 payment therefore;

5 (E) "Creditor" means any person who regularly extends, renews, or continues
6 credit, any person who regularly arranges for the extension, renewal, or continuation of
7 credit; or any assignee of an original creditor who participates in the decision to extend,
8 renew, or continue credit; and

9 (F) "Person" means a natural person, a corporation, a government or
10 governmental subdivision or agency, trust, estate partnership, cooperative or association.

11 SECTION 4. *Activities Constituting Discrimination.* – It shall be unlawful for any
12 creditor to discriminate against any applicant, with respect to any aspect of a credit
13 transaction –

14 (1) On the basis of race, color, religion, national origin, sex or marital status, or
15 age (provided the applicant has the capacity to contract);

16 (2) Because all or part of the applicant's income derives from the dole-outs or
17 any public assistance program; or

18 (3) Because the applicant has in good faith exercise any right under this Act.

19 SECTION 5. *Activities Not Constituting Discrimination.* – It shall not constitute
20 discrimination for purposes of this Act for a creditor –

21 (1) To make an inquiry as to marital status if such inquiry is for the purpose of
22 creating a valid lien, passing clear title, waiving inchoate rights to property; or assigning
23 earnings;

24 (2) To request the signature of both parties to a marriage for the purpose of
25 creating a valid lien, passing clear title, waiving inchoate rights to property; or assigning

1 earnings. *Provided*, however, that this subsection shall not be construed to permit a
2 creditor to take sex or marital status into account in connection with the evaluation of
3 credit-worthiness of any applicant;

4 (3) To make an inquiry of the applicant's age or of whether the applicant's
5 income derives from dole-outs or any public assistance program if such inquiry is for the
6 purpose of determining the amount and probable continuance of income levels, credit
7 history, or other pertinent element of credit-worthiness as provided in regulations of the
8 Board;

9 (4) To use any empirically derived credit system which considers age if such a
10 system is demonstrably and statistically sound in accordance with regulations of the
11 Board, except that in the operation of such system the age of an elderly applicant may
12 not be assigned a negative factor or value; or

13 (5) To make an inquiry or to consider the age of an elderly applicant when the
14 age of such applicant is to be used by the creditor in the extension of credit in favor of
15 such applicant.

16 SECTION 6. *Additional Activities Not Constituting Discrimination.* – It is not a
17 violation of this Act for a creditor to refuse to extend credit offered pursuant to –

18 (1) Any credit assistance program expressly authorized by law for an
19 economically disadvantaged class of persons;

20 (2) Any credit assistance program administered by a profit organization for its
21 members or an economically disadvantaged class of persons; or

22 (3) Any special purpose credit program offered by a profit-making organization
23 to meet special social needs which meets standard prescribed in regulations by the Board
24 if such refusal is required by or made pursuant to such program.

1 SECTION 7. *Reason for Adverse Action; Procedure Applicable.*

2 (1) Within 30 days (or such longer reasonable time as specified in regulations
3 of the Board for any class of credit transaction) after receipt of a completed application
4 for credit a creditor shall notify the applicant of its action on the application.

5 (2) Each applicant against whom adverse action is taken shall be entitled to a
6 statement of reasons for such action from the creditor. A creditor satisfies this obligation
7 by –

8 (A) Providing statements of reasons in writing as a matter of course to
9 applicants against whom adverse action is taken; or

10 (B) Giving written notification of adverse action which discloses

11 i. The applicant's right to a statement of reasons within thirty
12 (30) days after receipt by the creditor of a request made within 60 days after
13 such notification, and

14 ii. The identity of the person or office from which such
15 statement may be obtained. Such statement may be given orally if the
16 written notification advises the applicant of his right to have the statement
17 of reasons confirmed in writing on written request.

18 (3) A statement of reasons meets the requirements of this Section only if it
19 contains the specific reasons for the adverse action taken.

20 (4) Where a creditor has been requested by a third party to make specific
21 extension of credit directly to an applicant, the notification and statement of reasons
22 required by this subsection may be made directly by such creditor, or indirectly through
23 the third party, provided in either case that the identity of the creditor is disclosed

24 (5) The requirements of paragraph (B), (C) or (D) may be satisfied by verbal
25 statements or notifications in the case of any creditor who did not act on more than 150

1 applications during the calendar year preceding the calendar year in which the adverse
2 action is taken, as determined under regulations of the Board.

3 SECTION 8. *Promulgation of Regulation by Board; Establishment of Consumer*
4 *Advisory Council by Board; Duties, Membership, etc. of Council. –*

5 (1) The Board shall prescribe regulations to carry out the purposes of this Act.
6 These regulations may contain but are not limited to such classifications, differentiation,
7 or other provision, and may provide for such adjustments and exceptions for any class of
8 transactions, as in the judgment of the Board are necessary or proper to effectuate the
9 purposes of this Act, to prevent circumvention or evasion thereof, or to facilitate or
10 substantiate compliance therewith. In particular, such regulations may exempt from one
11 or more of the provisions of this Act any class of transactions not primarily for personal,
12 family, or household purposes, if the Board makes an express finding that the application
13 of such provision or provisions would not contribute substantially to carrying out the
14 purposes of this Act.

15 (2) The Board shall establish a Consumer Advisory Council to advise and
16 consult with it in the exercise of its functions and to advise and consult with it concerning
17 other consumer related matters it may place before the Council. In appointing the
18 members of the Council, the Council shall meet from time to time at the call of the
19 Board. Members of the Council who are not regular full-time employees of government,
20 national, or local, or any government-owned or controlled corporation, shall, while
21 attending meetings of such Council, be entitled to receive compensation at a rate fixed by
22 the Board, but not exceeding ₱300.00 per day, including travel time. Such members may
23 be allowed travel expenses, including transportation and subsistence, while away from
24 their homes or regular place of business.

1 SECTION 9. *Administrative Enforcement.* – Compliance with the requirements
2 imposed under this Act shall be enforced by:

3 (1) The Board, with respect to banks, including government banking
4 institutions, savings and loan associations, and other financial institutions or firms
5 engaged in the extension of credit;

6 (2) The Land Bank of the Philippines, with respect to agricultural credit union
7 cooperatives; and

8 (3) The Securities and Exchange Commission, with respect to brokers and
9 dealers.

10 The Board shall, however, exercise overall authority in the enforcement of the
11 requirements imposed under this Act.

12 SECTION 10. *Rules and Regulations by Enforcing Agencies.* – The authority of
13 the Board to issue regulations does not impair the authority of the other agencies
14 designated in Section 9 to make rules respecting their own procedures in enforcing
15 compliance with the requirements imposed under this Act.

16 SECTION 11. *Civil Liability.* –

17 (1) *Individual or Class Action for Actual Damages.* – Any creditor who fails to
18 comply with any requirement imposed under this Act shall be liable to the aggrieved
19 applicant for my actual damages sustained by such applicant acting either in individual
20 capacity or as a member of a class.

21 (2) *Recovery of Punitive Damages in Individual and Class Actions for Actual*
22 *Damages; Exemptions; Maximum Amount of Punitive Damages in Individual Actions;*
23 *Limitation on Total Recovery in Class Actions; Factors Determining Amount of Award –*
24 Any creditor, other than a government or governmental subdivision or agency, who fails
25 to comply with any requirement imposed under this Act shall be liable to the aggrieved

1 applicant for punitive damages in an amount not greater than ₱10,000, in addition to any
2 actual damages provided in subsection (1) of this Section, except that in the case of a
3 class action the total recovery under this subsection shall not exceed the amount of
4 ₱100,000 or one per centum of the net worth of the creditor. In determining the amount
5 of such damages in any action, the court shall consider, among other relevant factors, the
6 amount of any actual damages awarded, the frequency and persistence of failures of
7 compliance by the creditor, the resources of the creditor, the number of persons adversely
8 affected, and the extent to which the creditor's failure of compliance was intentional.

9 (3) *Recovery of Costs and Attorney's Fees* – In the case of any successful
10 action under subsection (a) or (b) of this Section, the costs of suit, together with a
11 reasonable attorney's fee as determined by the court, shall be added to any damages
12 awarded by the court under such subsection.

13 SECTION 12. *Jurisdiction of Courts; Time for Maintenance of Action;*
14 *Exceptions.* – Any action under this Act may be brought in the appropriate court using as
15 jurisdictional basis the amount in controversy. No such action shall be brought later than
16 two years from the date of the occurrence of the violations, except that –

17 (1) Whenever any agency having responsibility for administrative enforcement
18 under Section 9 commences an enforcement proceeding within two (2) years from the
19 date of the occurrence of the violation; or

20 (2) Whenever the Solicitor General commences a civil action under this section
21 within two years from the date of the occurrence of the violation.

22 Any applicant who has been a victim of the discrimination which is the subject of
23 such proceeding or civil action may bring an action under this Section not later than one
24 year after the commencement of that proceeding or action.

1 SECTION 13. *Request by Responsible Enforcement Agency to Solicitor General*
2 *for Civil Action* –

3 (1) The agencies having responsibility for administrative enforcement under
4 Section 9, if unable to obtain compliance with the requirements imposed under this Act,
5 are authorized to refer the matter to the Solicitor General with a recommendation that an
6 appropriate civil action be instituted.

7 (2) When a matter is referred to the Solicitor General pursuant to subsection (1)
8 of this Section, or whenever he has reason to believe that one or more creditors are
9 engaged in a pattern or practice in violation of this Act, the Solicitor General may bring a
10 civil action in a court of competent jurisdiction, including injunctive relief.

11 SECTION 14. *Discovery of Creditor's Granting Standards*. – Nothing in this Act
12 shall be construed to prohibit the discovery of a creditor's credit granting standards under
13 appropriate discovery procedures in the court in which an action or proceeding is
14 brought.

15 SECTION 15. *Annual Reports to Congress; Contents* - Each year, the Board shall
16 report to the Congress concerning the administration of its functions under this Act,
17 including such recommendations as it may deem necessary or appropriate. In addition,
18 the report of the Board shall include its assessment of the extent to which compliance
19 with the requirements of this Act is being achieved, and a summary of the enforcement
20 actions taken by each of the agencies assigned administrative responsibilities under
21 Section 9 of this Act.

22 SECTION 16. *Separability Clause*. – If any provision of this Act is held invalid or
23 unconstitutional, the same shall not affect the validity and effectivity of the other
24 provisions hereof.

1 SECTION 17. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
2 portions thereof, which are inconsistent with the provisions of this Act, are hereby
3 repealed, amended or modified accordingly.

4 SECTION 18. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
5 after its publication in the *Official Gazette* or in two (2) newspapers of general
6 circulation.

Approved,

/tmdp9Oct2015