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Int. No. 385

By the Public Advocate (Mr. Williams) and Council Members Louis, Hudson, Brooks-Powers and Hanif

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination in the issuance of credit and requiring creditors to disclose to potential borrowers how their rate is calculated

Be it enacted by the Council as follows:

Section 1. Section 8-107 of the administrative code of the city of New York, as amended by local law number 32 for the year 2022, is amended by adding a new subdivision 33 to read as follows:

33. Credit. (a) It shall be an unlawful discriminatory practice for any creditor or any officer, agent or employee thereof to discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit on the basis of an applicant's race, creed, religion, color, national origin, sexual orientation, age, gender, marital status, disability, partnership status, caregiver status, uniformed service or alienage or citizenship status of such applicant or applicants, or because of any lawful source of income of such applicant or applicants, or because children are, may be or would be residing with such applicant or applicants.

(b) Notwithstanding paragraph a of this subdivision, it shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to race, creed, religion, color, national origin, sexual orientation, age, gender, marital status, disability, partnership status, caregiver status, uniformed service or alienage or citizenship status of such

applicant or applicants, or any lawful source of income of such applicant or applicants, or whether children are, may be or would be residing with such applicant or applicants.

(c) Notwithstanding paragraph a of this subdivision, it shall not be an unlawful discriminatory practice to consider age in determining credit worthiness when age has a demonstrable and statistically sound relationship to a determination of credit worthiness.

(d) Notwithstanding paragraph a of this subdivision, the provisions in this subdivision, as they relate to age, shall not apply to persons under the age of eighteen years.

(e) Notwithstanding paragraph a of this subdivision, it shall not be an unlawful discriminatory practice for a creditor or any officer, agent or employee thereof to make inquiries concerning marital history, status and number of dependents.

(f) A creditor granting, withholding, extending or renewing, or fixing the rates, terms or conditions of, any form of credit shall, if requested by an applicant or applicants in writing, disclose the method by which such determinations, rates, terms or conditions were calculated.

§ 2. The commission on human rights shall engage in outreach and education efforts regarding the rights of borrowers, and the responsibilities of creditors, established by this local law. Such outreach and education shall be directed at such creditors and the general public.

§ 3. a. For a period of one year, the commission on human rights shall organize and conduct no fewer than five investigations of discrimination in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, during which the commission shall use pairs of testers to investigate creditors. Such investigations shall include but not be limited to using matched pairs of testers who shall apply for, inquire about or express interest in the same extension of credit and who shall be assigned similar credentials but who shall differ in one of the following characteristics: actual or perceived race, creed, religion, color, national origin, sexual orientation, age, gender, marital status, disability, partnership status, caregiver status, uniformed service or alienage or citizenship status of such applicant or applicants, lawful

source of income, number of children who are, may be or would be residing with such applicant or applicants. The first of the investigations shall commence on or before January 1, 2023.

b. On or before January 1, 2024, the commission shall submit to the speaker of the Council a report related to such investigations conducted during the 12 month period commencing on January 1, 2023. Such report shall include, but not be limited to:

(i) the number of matched pair tests completed;

(ii) the protected class variable used in each matched pair test; and

(iii) the number of incidents of actual or perceived discrimination on each protected class, including a description of any incidents of discrimination detected in the course of such investigations, provided that the commission shall not be required to report information that would compromise any ongoing or prospective investigation or prosecution.

c. Any incidents of actual or perceived discrimination that occur during such investigations shall be referred to the commission's law enforcement bureau.

d. Nothing herein shall preclude the commission from conducting other such discrimination testing programs or investigations pursuant to the commissioner's authority under the Administrative Code and the New York City Charter.

§ 4. This local law shall take effect 120 days after it becomes law.

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