

mine whether the applicants are women-owned, minority-owned, or small businesses for purposes of this section.

**(h) Definitions**

For purposes of this section, the following definitions shall apply:

**(1) Financial institution**

The term “financial institution” means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

**(2) Small business**

The term “small business” has the same meaning as the term “small business concern” in section 632 of this title.

**(3) Small business loan**

The term “small business loan” means a loan made to a small business.

**(4) Minority**

The term “minority” has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

**(5) Minority-owned business**

The term “minority-owned business” means a business—

(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

**(6) Women-owned business**

The term “women-owned business” means a business—

(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.

(Pub. L. 90-321, title VII, § 704B, as added Pub. L. 111-203, title X, § 1071(a), July 21, 2010, 124 Stat. 2056.)

**Editorial Notes**

REFERENCES IN TEXT

Section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (h)(4), is section 1204(c)(3) of Pub. L. 101-73, which is set out as a note under section 1811 of Title 12, Banks and Banking.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective on the designated transfer date, see section 1071(d) of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 1691 of this title.

**§ 1691d. Applicability of other laws**

**(a) Requests for signature of husband and wife for creation of valid lien, etc.**

A request for the signature of both parties to a marriage for the purpose of creating a valid

lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this subchapter: *Provided, however,* That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

**(b) State property laws affecting creditworthiness**

Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this subchapter.

**(c) State laws prohibiting separate extension of consumer credit to husband and wife**

Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.*

**(d) Combining credit accounts of husband and wife with same creditor to determine permissible finance charges or loan ceilings under Federal or State laws**

When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

**(e) Election of remedies under subchapter or State law; nature of relief determining applicability**

Where the same act or omission constitutes a violation of this subchapter and of applicable State law, a person aggrieved by such conduct may bring a legal action to recover monetary damages either under this subchapter or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

**(f) Compliance with inconsistent State laws; determination of inconsistency**

This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. The Bureau is authorized to determine whether such inconsistencies exist. The Bureau may not determine that any State law is inconsistent with any provision of this subchapter if the Bureau determines that such law gives greater protection to the applicant.

**(g) Exemption by regulation of credit transactions covered by State law; failure to comply with State law**

The Bureau shall by regulation exempt from the requirements of sections 1691 and 1691a of

this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this subchapter or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this subchapter for the purposes of section 1691e of this title.

(Pub. L. 90-321, title VII, § 705, as added Pub. L. 93-495, title V, § 503, Oct. 28, 1974, 88 Stat. 1523; amended Pub. L. 94-239, § 5, Mar. 23, 1976, 90 Stat. 253; Pub. L. 111-203, title X, § 1085(1), July 21, 2010, 124 Stat. 2083.)

#### Editorial Notes

##### AMENDMENTS

2010—Subsecs. (f), (g). Pub. L. 111-203 substituted “Bureau” for “Board” wherever appearing.

1976—Subsec. (e). Pub. L. 94-239, § 5(1), substituted provisions requiring an election of remedies in legal actions involving the recovery of monetary damages, for provisions specifying a general election of remedies.

Subsecs. (f), (g). Pub. L. 94-239, § 5(2), added subsecs. (f) and (g).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-239 effective Mar. 23, 1976, see section 708 of Pub. L. 90-321, set out as an Effective Date note under section 1691 of this title.

### § 1691e. Civil liability

#### (a) Individual or class action for actual damages

Any creditor who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

#### (b) Recovery of punitive damages in individual and class action for actual damages; exemptions; maximum amount of punitive damages in individual actions; limitation on total recovery in class actions; factors determining amount of award

Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this subchapter shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of

compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

#### (c) Action for equitable and declaratory relief

Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this subchapter.

#### (d) Recovery of costs and attorney fees

In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

#### (e) Good faith compliance with rule, regulation, or interpretation of Bureau or interpretation or approval by an official or employee of Bureau of Consumer Financial Protection duly authorized by Bureau

No provision of this subchapter imposing liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Bureau or in conformity with any interpretation or approval by an official or employee of the Bureau of Consumer Financial Protection duly authorized by the Bureau to issue such interpretations or approvals under such procedures as the Bureau may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

#### (f) Jurisdiction of courts; time for maintenance of action; exceptions

Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than 5 years after the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 1691c of this title commences an enforcement proceeding within 5 years after the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within 5 years after the date of the occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

#### (g) Request by responsible enforcement agency to Attorney General for civil action

The agencies having responsibility for administrative enforcement under section 1691c of this title, if unable to obtain compliance with section 1691 of this title, are authorized to refer the