Legislation Details (With Text)

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File created:	7/16/2020			**In control:**	COMMON COUNCIL
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Title: ALTERNATE - Calling for the Protection of the Community Reinvestment Act - To Ensure That Efforts To Modernize Regulations Do Not Undermine The Intent Of The Law.

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Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
7/21/2020	1	COMMON COUNCIL	Adopt As Amended Under Suspension of Rules 2.04, 2.05, 2.24 & 2.25	Pass
7/16/2020	1	Council Office	RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.05, 2.24, & 2.25 - MISC. ITEMS	

Fiscal Note

No appropriation required.

Title

ALTERNATE - Calling for the Protection of the Community Reinvestment Act - To Ensure That Efforts To Modernize Regulations Do Not Undermine The Intent Of The Law.

Body

WHEREAS, the Community Reinvestment Act (CRA) was enacted on October 12, 1977 to end the practice of “redlining” by financial institutions where they would draw a red line on a map around the neighborhoods they did not want to offer financial services; before the enactment of the CRA, redlining made it near impossible for low- and moderate-income Americans, racial and ethnic minorities, and their neighborhoods to access credit services, such as mortgages and business loans, regardless of their qualifications or creditworthiness; and,

WHEREAS, CRA was a landmark civil rights law passed in 1977 to end discrimination that was once common in America’s banking and housing markets; and,

WHEREAS, discrimination in lending is still a problem; and,

WHEREAS, the CRA states that “regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered”; and,

WHEREAS, the CRA establishes a regulatory regime for monitoring the level of lending, investments, and services in low- and moderate-income neighborhoods traditionally underserved by lending institutions; examiners from three federal agencies assess and “grade” a lending institution’s activities in low- and moderate-income neighborhoods; and,

WHEREAS, the federal agencies conducting CRA examinations are: the Office of the Comptroller of the

Currency (OCC), which examines nationally chartered banks and the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Board - both of whom examine state-chartered banks; and,

WHEREAS, if a regulatory agency finds a financial institution not serving these neighborhoods, it can delay or deny that institution's request to merge with another lender or to open a branch or expand any of its other services; the financial institution regulatory agency can also approve the merger application subject to specific improvements in a bank's lending or investment record in low- and moderate-income neighborhoods; and,

WHEREAS, a financial institution's CRA grade can be downgraded if a federal agency uncovers evidence of illegal, abusive or discriminatory lending on their fair lending exams that occur at about the same time as CRA exams; and,

WHEREAS, since 1996, according to analysis of bank lending data by the National Community Reinvestment Coalition (NCRC), CRA-covered banks issued almost 29 million small business loans in low- and moderate-income tracts, totaling $1.156 trillion, and $1.179 trillion in community development loans that support affordable housing and economic development projects benefiting low- and moderate-income communities; and,

WHEREAS, a 2016 review of the CRA examinations of intermediate small banks(ISBs)/mid-sized banks (banks with asset sizes today between $313 million and $1.252 billion) found that ISBs produced over $9.3 billion of community development (CD) loans and grants; and,

WHEREAS, studies have found that CRA-covered home lending is safer and sounder than non-CRA covered lending; when a larger share of lending is issued by CRA-covered banks than by independent mortgage companies, a neighborhood experiences lower delinquency rates and less risky lending; and,

WHEREAS, despite the tremendous benefits of CRA to communities, the full potential of CRA has not been realized because it has not been updated to take into account changes in the banking industry and the economy; independent mortgage companies not covered by CRA now make more than 50 percent of the home mortgage loans in America and financial technology companies ("Fintech") not covered by CRA operating via the internet are rapidly increasing their lending; and,

WHEREAS, notwithstanding the need to modernize CRA, we are concerned about ideas from some federal regulators that would substantially weaken the law; and,

WHEREAS, geographic assessment areas must remain the focus of CRA exams for all banks; banks should continue to be graded based on every geography where they lend or receive a significant percentage of their deposits; banks cannot be allowed to cherry-pick where they lend - and where they don't lend at all or to ignore the credit needs of distressed and vulnerable communities; and,

WHEREAS, regulators review of a bank's CRA commitment should not be consumed by an approach that is primarily driven by dollar amount. In May of 2020, the OCC finalized changes to its CRA regulations and implemented a presumptive rating which would mainly consist of the dollar amount of a bank's total CRA activities divided by the bank's deposits. CRA was designed to encourage the financial system to meet the credit and capital needs of people with low and moderate incomes and small businesses who frequently have a need for relatively smaller sized loans. Moving to a dollar volume approach would encourage larger deals at the expense of underserved borrowers the law was designed to protect; and,

WHEREAS, the new OCC rule will allow 89% of the banks they regulate to opt for easier exams that will start right away and will result in more banks not having a service test that looks at their branching in lower income neighborhoods and in more banks not being evaluated for their community development financing; and,

WHEREAS, the OCC's rule of 2020 would also move CRA away from its focus on low- and moderate-income

families and communities and count the financing of large infrastructure projects and financial education for middle- and upper-income consumers; and,

WHEREAS, CRA should explicitly state the law's obligation to fairly serve all races and ethnicities; banks that engage in large-scale illegal and harmful activities should fail their CRA exams; and,

WHEREAS, replacing a lending test for large banks that counted for 50% of the overall rating with a pass/fail lending test will encourage banks to decrease their home and small business lending in communities of color and modest income communities; and,

WHEREAS, the new scoring system will radically devalue the importance of maintaining branches in neighborhoods with low- and moderate-incomes, despite strong evidence that branches are still heavily used by households with lower incomes; and,

WHEREAS, the rule allows examiners at their discretion to grant multipliers of up to four times for activities that they consider innovative will result in inconsistent exams, inflated ratings, and reductions in in actual community development financing; and,

WHEREAS, basing new assessment areas off of physical addresses of depositors is problematic since this information is not currently collected, and if collected would likely not be shared with the public, leaving cities to guess whether a bank has an obligation to serve their community,

NOW, THEREFORE, BE IT RESOLVED, that the City of Madison will support efforts to modernize CRA, but not relax or undermine the law's goal and intent; and,

BE IT FURTHER RESOLVED, that the City of Madison opposes the OCC's changes to CRA and urges the Federal Reserve Board and FDIC to refrain from these harmful changes that will thwart the economic recovery from COVID-19 and will divert resources from recovery efforts in low- and moderate-income neighborhoods and communities of color that have been disproportionately harmed by COVID-19; and,

BE IT FURTHER RESOLVED, that the City of Madison will support modernizing CRA to apply it to non-bank institutions including mortgage companies, and financial technology companies, ~~and credit unions;~~ and,

BE IT FURTHER RESOLVED, that the City of Madison will opposes the OCC's changes that also efforts to watered down the penalties under CRA for discrimination, and urges the Federal Reserve Board and FDIC to increase penalties for discrimination; and,

BE IT FURTHER RESOLVED that the City of Madison believes that banks should also be examined for how they are lending, serving and investing in underserved neighborhoods that have high minority populations, low capital flows and have had a history of redlining. While the Administration's new CRA rules may give credit for bank activities in these neighborhoods, the OCC's changes will not actively hold banks accountable for expanding opportunities for wealth building in communities of color; and,

BE IT FURTHER RESOLVED, that the City of Madison will support a CRA with a clearly-defined grading system that emphasizes lending, bank branches, fair lending performance, and responsible loan products for working class families; and,

BE IT FURTHER RESOLVED, that the City of Madison will support efforts to hold a bank accountable if it fails its CRA exam, or wishes to acquire a bank with a better CRA grade, and urge agencies to recognize and encourage community benefit agreements and efforts that motivate banks to make more loans, investments, and services available to traditionally underserved communities; and,

BE IT FINALLY RESOLVED, that this resolution will be shared with Madison's federal delegation.

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