The first three chapters of this book cover preliminary issues in credit discrimination cases. This chapter introduces the reader to the issue of credit discrimination and to the various statutes that can be used to address it. It contains an overview and history of the ECOA and the FHA, as well as descriptions of other statutes that are useful in challenging credit discrimination. Chapter 2, infra, details the scope and coverage of the credit discrimination statutes, including who is covered and what types of actions are covered. It discusses the definitions of credit, applicant, and creditor for purposes of the ECOA. Chapter 2 [1] should always be consulted if the practitioner is considering filing an action under the ECOA or the FHA, to ensure that the statute covers the transaction at issue. The chapter includes a useful list comparing causes of action under the ECOA versus the FHA.

Chapter 3, infra, contains an in-depth description of the prohibited bases under both the ECOA and the FHA, the ECOA alone, the FHA alone, the federal Civil Rights Acts, and the Americans with Disabilities Act (ADA). It also notes additional prohibited bases that appear solely in state credit discrimination statutes. A practice cannot be found discriminatory unless it discriminates on one of these prohibited bases. Chapter 4, infra, examines the two major forms of credit discrimination, disparate treatment and disparate impact. It also discusses the elements necessary to prove each form of discrimination.

Chapters 5 [4] and 6 [5], infra, enumerate specific types of discrimination at different stages of a credit transaction. Chapter 5 [4] focuses on discrimination prior to and during the credit application process, including prohibited requests for information and co-signatures. Chapter 6 [5] focuses on discrimination during the credit evaluation process. It includes sections on the topics of credit scoring and discrimination based upon source of income.


Chapter 9, infra, focuses on discrimination during the latter stages of the credit transaction, after credit has been granted. This includes discrimination in loan servicing, debt collection after default, adverse actions taken on existing accounts, and credit reporting.

Chapter 10 [9], infra, focuses on the ECOA’s procedural requirements, including its notice and record retention requirements. The ECOA’s notification requirements are very specific and apply whether or not discrimination can be established. Chapter 10 [9] gives examples of how practitioners have used the ECOA’s notification requirements to challenge abusive credit practices.


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[1] https://library.nclc.org/nclc/link/CD.02
1.2.3 Overview of the Chapters

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