

Union Calendar No. 263

117TH CONGRESS
2^D SESSION

H. R. 166

[Report No. 117-349]

To establish an Office of Fair Lending Testing to test for compliance with the Equal Credit Opportunity Act, to strengthen the Equal Credit Opportunity Act and to provide for criminal penalties for violating such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2021

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Financial Services

JUNE 7, 2022

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 4, 2021]

A BILL

To establish an Office of Fair Lending Testing to test for compliance with the Equal Credit Opportunity Act, to strengthen the Equal Credit Opportunity Act and to provide for criminal penalties for violating such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Fair Lending for All*
 5 *Act”.*

6 **SEC. 2. OFFICE OF FAIR LENDING TESTING.**

7 *(a) ESTABLISHMENT.—There is established within the*
 8 *Bureau of Consumer Financial Protection an Office of Fair*
 9 *Lending Testing (hereinafter referred to as the “Office”).*

10 *(b) DIRECTOR.—The head of the Office shall be a Di-*
 11 *rector, who shall—*

12 *(1) be appointed to a 5-year term by, and report*
 13 *to, the Director of the Bureau of Consumer Financial*
 14 *Protection;*

15 *(2) appoint and fix the compensation of such*
 16 *employees as are necessary to carry out the duties of*
 17 *the Office under this section; and*

18 *(3) provide an estimated annual budget to the*
 19 *Director of the Bureau of Consumer Financial Protec-*
 20 *tion.*

21 *(c) CIVIL SERVICE POSITION.—The position of the Di-*
 22 *rector shall be a career position within the civil service.*

23 *(d) TESTING.—*

24 *(1) IN GENERAL.—The Office, in consultation*
 25 *with the Attorney General and the Secretary of Hous-*

1 *ing and Urban Development, shall conduct testing of*
 2 *compliance with the Equal Credit Opportunity Act*
 3 *by creditors, through the use of individuals who, with-*
 4 *out any bona fide intent to receive a loan, pose as*
 5 *prospective borrowers for the purpose of gathering in-*
 6 *formation.*

7 (2) *REFERRAL OF VIOLATIONS.—If, in carrying*
 8 *out the testing described under paragraph (1), the Of-*
 9 *fice believes a person has violated the Equal Credit*
 10 *Opportunity Act, the Office shall refer such violation*
 11 *in writing to the Attorney General for appropriate*
 12 *action.*

13 (e) *REPORT TO CONGRESS.—Section 707 of the Equal*
 14 *Credit Opportunity Act (15 U.S.C. 1691f) is amended by*
 15 *adding at the end the following: “In addition, each report*
 16 *of the Bureau shall include an analysis of the testing car-*
 17 *ried out pursuant to section 2 of the Fair Lending for All*
 18 *Act, and each report of the Bureau and the Attorney Gen-*
 19 *eral shall include a summary of criminal enforcement ac-*
 20 *tions taken under section 706A.”.*

21 **SEC. 3. PROHIBITION ON CREDIT DISCRIMINATION.**

22 (a) *IN GENERAL.—Subsection (a) of section 701 of the*
 23 *Equal Credit Opportunity Act (15 U.S.C. 1691) is amended*
 24 *to read as follows:*

1 “(a) *It shall be unlawful to discriminate against any*
 2 *person, with respect to any aspect of a credit transaction—*

3 “(1) *on the basis of race, color, religion, national*
 4 *origin, sex (including sexual orientation and gender*
 5 *identity), marital status, or age (provided the appli-*
 6 *cant has the capacity to contract);*

7 “(2) *on the basis of the person’s zip code, or cen-*
 8 *sus tract;*

9 “(3) *because all or part of the person’s income*
 10 *derives from any public assistance program; or*

11 “(4) *because the person has in good faith exer-*
 12 *cised any right under the Consumer Credit Protection*
 13 *Act.”.*

14 (b) *REMOVAL OF CERTAIN REFERENCES TO CREDI-*
 15 *TORS AND APPLICANTS AND DEFINITION ADDED.—The*
 16 *Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is*
 17 *amended—*

18 (1) *in section 701(b)—*

19 (A) *by striking “applicant” each place such*
 20 *term appears and inserting “person”; and*

21 (B) *in paragraph (2), by striking “appli-*
 22 *cant’s” each place such term appears and insert-*
 23 *ing “person’s”;*

24 (2) *in section 702—*

1 (A) by redesignating subsection (g) as sub-
2 section (h); and

3 (B) by inserting after subsection (f) the fol-
4 lowing:

5 “(g) The term ‘aggrieved person’ includes any person
6 who—

7 “(1) claims to have been injured by a discrimi-
8 natory credit practice; or

9 “(2) believes that such person will be injured by
10 a discriminatory credit practice.”;

11 (3) in section 704A—

12 (A) in subsection (b)(1), by striking “appli-
13 cant” each place such term appears and insert-
14 ing “aggrieved person”; and

15 (B) in subsection (c), by striking “appli-
16 cant” and inserting “aggrieved person”;

17 (4) in section 705—

18 (A) by striking “the applicant” each place
19 such term appears and inserting “persons”; and

20 (B) in subsection (a)—

21 (i) by striking “a creditor to take” and
22 inserting “taking”; and

23 (ii) by striking “applicant” and in-
24 serting “person”; and

25 (5) in section 706—

1 (A) by striking “creditor” each place such
2 term appears and inserting “person”;

3 (B) by striking “creditor’s” each place such
4 term appears and inserting “person’s”;

5 (C) by striking “creditors” each place such
6 term appears and inserting “persons”; and

7 (D) in subsection (f), by striking “appli-
8 cant” and inserting “aggrieved person”.

9 **SEC. 4. CRIMINAL PENALTIES FOR VIOLATIONS OF THE**
10 **EQUAL CREDIT OPPORTUNITY ACT.**

11 (a) *IN GENERAL.*—*The Equal Credit Opportunity Act*
12 *(15 U.S.C. 1691 et seq.) is amended by inserting after sec-*
13 *tion 706 the following:*

14 **“§ 706A. Criminal penalties**

15 “(a) *INDIVIDUAL VIOLATIONS.*—*Any person who*
16 *knowingly and willfully violates this title shall be fined not*
17 *more than \$50,000, or imprisoned not more than 1 year,*
18 *or both.*

19 “(b) *PATTERN OR PRACTICE.*—

20 “(1) *IN GENERAL.*—*Any person who engages in*
21 *a pattern or practice of knowingly and willfully vio-*
22 *lating this title shall be fined not more than \$100,000*
23 *for each violation of this title, or imprisoned not more*
24 *than twenty years, or both.*

1 “(2) *PERSONAL LIABILITY OF EXECUTIVE OFFI-*
 2 *CERS AND DIRECTORS OF THE BOARD.*—*Any executive*
 3 *officer or director of the board of an entity who know-*
 4 *ingly and willfully causes the entity to engage in a*
 5 *pattern or practice of knowingly and willfully vio-*
 6 *lating this title (or who directs another agent, senior*
 7 *officer, or director of the entity to commit such a vio-*
 8 *lation or engage in such acts that result in the direc-*
 9 *tor or officer being personally unjustly enriched) shall*
 10 *be—*

11 “(A) *fin*~~e~~*d in an amount not to exceed 100*
 12 *percent of the compensation (including stock op-*
 13 *tions awarded as compensation) received by such*
 14 *officer or director from the entity—*

15 “(i) *during the time period in which*
 16 *the violations occurred; or*

17 “(ii) *in the one to three year time pe-*
 18 *riod preceding the date on which the viola-*
 19 *tions were discovered; and*

20 “(B) *imprisoned for not more than 5*
 21 *years.”.*

22 (b) *CLERICAL AMENDMENT.*—*The table of contents for*
 23 *the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.)*
 24 *is amended by inserting after the item relating to section*
 25 *706 the following:*

“706A. *Criminal penalties.*”.

1 **SEC. 5. REVIEW OF LOAN APPLICATIONS.**

2 (a) *IN GENERAL.*—Subtitle C of the Consumer Finan-
 3 cial Protection Act of 2010 (12 U.S.C. 5531 et seq.) is
 4 amended by adding at the end the following:

5 **“SEC. 1038. REVIEW OF LOAN APPLICATIONS.**

6 “(a) *IN GENERAL.*—The Bureau shall carry out re-
 7 views of loan applications and the process of taking loan
 8 applications being used by covered persons to ensure such
 9 applications and processes do not violate the Equal Credit
 10 Opportunity Act or any other Federal consumer financial
 11 law.

12 “(b) *PROHIBITION AND ENFORCEMENT.*—If the Bu-
 13 reau determines under subsection (a) that any loan applica-
 14 tion or process of taking a loan application violates the
 15 Equal Credit Opportunity Act or any other Federal con-
 16 sumer financial law, the Bureau shall—

17 “(1) prohibit the covered person from using such
 18 application or process; and

19 “(2) take such enforcement or other actions with
 20 respect to the covered person as the Bureau deter-
 21 mines appropriate.”.

22 (b) *CLERICAL AMENDMENT.*—The table of contents in
 23 section 1 of the Dodd-Frank Wall Street Reform and Con-
 24 sumer Protection Act is amended by inserting after the item
 25 relating to section 1037 the following:

“Sec. 1038. Review of loan applications.”.

1 **SEC. 6. MORTGAGE DATA COLLECTION.**

2 (a) *IN GENERAL.*—Section 304(b)(4) of the Home
 3 *Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)(4)) is*
 4 *amended by striking “census tract, income level, racial*
 5 *characteristics, age, and gender” and inserting “the appli-*
 6 *cant or borrower’s zip code, census tract, income level, race,*
 7 *color, religion, national origin, sex, marital status, sexual*
 8 *orientation, gender identity, and age”.*

9 (b) *PROTECTION OF PRIVACY INTERESTS.*—Section
 10 304(h)(3)(A) of the Home Mortgage Disclosure Act of 1975
 11 (12 U.S.C. 2803(h)(3)(A)) is amended—

12 (1) *in clause (i), by striking “and” at the end;*

13 (2) *by redesignating clause (ii) as clause (iii);*

14 *and*

15 (3) *by inserting after clause (i) the following:*

16 *“(ii) zip code, census tract, and any*
 17 *other category of data described in sub-*
 18 *section (b)(4), as the Bureau determines to*
 19 *be necessary to satisfy the purpose described*
 20 *in paragraph (1)(E), and in a manner con-*
 21 *sistent with that purpose; and”.*

Amend the title so as to read: “A bill to establish an Office of Fair Lending Testing to test for compliance with the Equal Credit Opportunity Act, to strengthen the Equal Credit Opportunity Act, to ensure that persons injured by discriminatory practices, including organizations that have diverted resources to address discrimination

and whose mission has been frustrated by illegal acts, can seek relief under such Act and to provide for criminal penalties for violating such Act, and for other purposes.”.

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