

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 166  
OFFERED BY MR. GREEN OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Fair Lending for All  
3 Act”.

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

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

9       (b) DIRECTOR.—The head of the Office shall be a  
10 Director, who shall—

11           (1) be appointed to a 5-year term by, and re-  
12 port to, the Director of the Bureau of Consumer Fi-  
13 nancial Protection;

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

1           (3) provide an estimated annual budget to the  
2 Director of the Bureau of Consumer Financial Pro-  
3 tection.

4           (c) CIVIL SERVICE POSITION.—The position of the  
5 Director shall be a career position within the civil service.

6           (d) TESTING.—

7           (1) IN GENERAL.—The Office, in consultation  
8 with the Attorney General and the Secretary of  
9 Housing and Urban Development, shall conduct  
10 testing of compliance with the Equal Credit Oppor-  
11 tunity Act by creditors, through the use of individ-  
12 uals who, without any bona fide intent to receive a  
13 loan, pose as prospective borrowers for the purpose  
14 of gathering information.

15           (2) REFERRAL OF VIOLATIONS.—If, in carrying  
16 out the testing described under paragraph (1), the  
17 Office believes a person has violated the Equal Cred-  
18 it Opportunity Act, the Office shall refer such viola-  
19 tion in writing to the Attorney General for appro-  
20 priate action.

21           (e) REPORT TO CONGRESS.—Section 707 of the  
22 Equal Credit Opportunity Act (15 U.S.C. 1691f) is  
23 amended by adding at the end the following: “In addition,  
24 each report of the Bureau shall include an analysis of the  
25 testing carried out pursuant to section 2 of the Fair Lend-

1 ing for All Act, and each report of the Bureau and the  
2 Attorney General shall include a summary of criminal en-  
3 forcement actions taken under section 706A.”.

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

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

8 “(a) It shall be unlawful to discriminate against any  
9 person, with respect to any aspect of a credit trans-  
10 action—

11 “(1) on the basis of race, color, religion, na-  
12 tional origin, sex (including sexual orientation and  
13 gender identity), marital status, or age (provided the  
14 applicant has the capacity to contract);

15 “(2) on the basis of the person’s zip code, or  
16 census tract;

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

19 “(4) because the person has in good faith exer-  
20 cised any right under the Consumer Credit Protec-  
21 tion Act.”.

22 (b) REMOVAL OF CERTAIN REFERENCES TO CREDI-  
23 TORS AND APPLICANTS AND DEFINITION ADDED.—The  
24 Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.)  
25 is amended—

1 (1) in section 701(b)—

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

4 (B) in paragraph (2), by striking “appli-  
5 cant’s” each place such term appears and in-  
6 serting “person’s”;

7 (2) in section 702—

8 (A) by redesignating subsection (g) as sub-  
9 section (h); and

10 (B) by inserting after subsection (f) the  
11 following:

12 “(g) The term ‘aggrieved person’ includes any person  
13 who—

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

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

18 (3) in section 704A—

19 (A) in subsection (b)(1), by striking “ap-  
20 plicant” each place such term appears and in-  
21 serting “aggrieved person”; and

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

24 (4) in section 705—

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

3 (B) in subsection (a)—

4 (i) by striking “a creditor to take”  
5 and inserting “taking”; and

6 (ii) by striking “applicant” and insert-  
7 ing “person”; and

8 (5) in section 706—

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

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

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

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

17 **SEC. 4. CRIMINAL PENALTIES FOR VIOLATIONS OF THE**  
18 **EQUAL CREDIT OPPORTUNITY ACT.**

19 (a) IN GENERAL.—The Equal Credit Opportunity  
20 Act (15 U.S.C. 1691 et seq.) is amended by inserting after  
21 section 706 the following:

22 **“§ 706A. Criminal penalties**

23 “(a) INDIVIDUAL VIOLATIONS.—Any person who  
24 knowingly and willfully violates this title shall be fined not

1 more than \$50,000, or imprisoned not more than 1 year,  
2 or both.

3 “(b) PATTERN OR PRACTICE.—

4 “(1) IN GENERAL.—Any person who engages in  
5 a pattern or practice of knowingly and willfully vio-  
6 lating this title shall be fined not more than  
7 \$100,000 for each violation of this title, or impris-  
8 oned not more than twenty years, or both.

9 “(2) PERSONAL LIABILITY OF EXECUTIVE OFFI-  
10 CERS AND DIRECTORS OF THE BOARD.—Any execu-  
11 tive officer or director of the board of an entity who  
12 knowingly and willfully causes the entity to engage  
13 in a pattern or practice of knowingly and willfully  
14 violating this title (or who directs another agent,  
15 senior officer, or director of the entity to commit  
16 such a violation or engage in such acts that result  
17 in the director or officer being personally unjustly  
18 enriched) shall be—

19 “(A) fined in an amount not to exceed 100  
20 percent of the compensation (including stock  
21 options awarded as compensation) received by  
22 such officer or director from the entity—

23 “(i) during the time period in which  
24 the violations occurred; or

1                   “(ii) in the one to three year time pe-  
2                   riod preceding the date on which the viola-  
3                   tions were discovered; and

4                   “(B) imprisoned for not more than 5  
5                   years.”.

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

“706A. Criminal penalties.”.

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

11           (a) IN GENERAL.—Subtitle C of the Consumer Fi-  
12 nancial Protection Act of 2010 (12 U.S.C. 5531 et seq.)  
13 is amended by adding at the end the following:

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

15           “(a) IN GENERAL.—The Bureau shall carry out re-  
16 views of loan applications and the process of taking loan  
17 applications being used by covered persons to ensure such  
18 applications and processes do not violate the Equal Credit  
19 Opportunity Act or any other Federal consumer financial  
20 law.

21           “(b) PROHIBITION AND ENFORCEMENT.—If the Bu-  
22 reau determines under subsection (a) that any loan appli-  
23 cation or process of taking a loan application violates the  
24 Equal Credit Opportunity Act or any other Federal con-  
25 sumer financial law, the Bureau shall—

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

3           “(2) take such enforcement or other actions  
4           with respect to the covered person as the Bureau de-  
5           termines appropriate.”.

6           (b) CLERICAL AMENDMENT.—The table of contents  
7           in section 1 of the Dodd-Frank Wall Street Reform and  
8           Consumer Protection Act is amended by inserting after  
9           the item relating to section 1037 the following:

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

10       **SEC. 6. MORTGAGE DATA COLLECTION.**

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

18           (b) PROTECTION OF PRIVACY INTERESTS.—Section  
19           304(h)(3)(A) of the Home Mortgage Disclosure Act of  
20           1975 (12 U.S.C. 2803(h)(3)(A)) is amended—

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

22                   (2) by redesignating clause (ii) as clause (iii);

23                   and

24                   (3) by inserting after clause (i) the following:



1                   “(ii) zip code, census tract, and any  
2                   other category of data described in sub-  
3                   section (b)(4), as the Bureau determines to  
4                   be necessary to satisfy the purpose de-  
5                   scribed in paragraph (1)(E), and in a man-  
6                   ner consistent 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.”.

