

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8485
OFFERED BY MS. WILLIAMS OF GEORGIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Expanding Access to
3 Credit through Consumer-Permissioned Data Act”.

4 SEC. 2. FINDINGS.

5 The Congress finds the following:

6 (1) Using alternative data in mortgage lending
7 (either through alternative credit scores or in under-
8 writing) has the potential to increase access to credit
9 for individuals with little or no credit history with
10 the national credit reporting agencies (NCRAs), ac-
11 cording to a review of alternative data use in mort-
12 gage lending by the Government Accountability Of-
13 fice in December 2021.

14 (2) Approximately 45 million consumers do not
15 have any credit history with the NCRAs or did not
16 have enough credit history to be scored, according to
17 a 2015 report by the Bureau of Consumer Financial
18 Protection (CFPB), entitled “Data Point: Credit

1 Invisibles”. The CFPB also reported that this popu-
2 lation disproportionately included low-income con-
3 sumers, younger consumers, and consumers of color.

4 (3) The use of alternative data to establish a
5 low- or moderate-income borrower’s credit history
6 for the purpose of extending mortgage credit can
7 help lenders meet goals of the Community Reinvest-
8 ment Act.

9 (4) Mortgage underwriting systems that allow
10 lenders to use consumer-permissioned alternative
11 credit information may help expand access to mort-
12 gages for borrowers with lower credit scores and
13 communities of color. On September 21, 2021,
14 Fannie Mae updated its automated underwriting
15 system so that it notifies lenders that a borrower
16 may benefit from the inclusion of consistent rental
17 payment information, and with the consumer’s per-
18 mission, the underwriting system will automatically
19 identify rental payments within bank statement data
20 and include this in its credit assessment. According
21 to a fair lending and credit risk analysis by Fannie
22 Mae and the Federal Housing Finance Agency, the
23 populations most likely to benefit from this change
24 are applicants with lower credit scores, who are dis-
25 proportionately consumers of color.

1 **SEC. 3. REQUIREMENT TO CONSIDER ADDITIONAL CREDIT**
2 **INFORMATION WHEN MAKING MORTGAGE**
3 **LOANS.**

4 (a) IN GENERAL.—The Equal Credit Opportunity
5 Act (15 U.S.C. 1691 et seq.) is amended by inserting after
6 section 701 the following:

7 **“§ 701A. Requirement to consider additional credit**
8 **information when making mortgage loans**

9 “(a) REQUIREMENT.—

10 “(1) IN GENERAL.—A creditor extending a
11 mortgage loan shall, in evaluating the creditworthi-
12 ness of an applicant, consider consumer-
13 permissioned alternative credit information not re-
14 ported through a consumer reporting agency, if the
15 applicant meets the conditions described under para-
16 graph (3).

17 “(2) CONSUMER-PERMISSIONED ALTERNATIVE
18 CREDIT INFORMATION DEFINED.—In this section,
19 the term ‘consumer-permissioned alternative credit
20 information’—

21 “(A) shall have the meaning given such
22 term by the Director of the Bureau of Con-
23 sumer Financial Protection, consistent with
24 Regulation B (12 CFR part 1002); and

25 “(B) only means credit information that,
26 in the judgment of the Director of the Bureau,

1 relates to the types of information that the
2 creditor would consider if otherwise reported,
3 including cash flow information, employment
4 and income verification information, and cur-
5 rent payment and transaction information, such
6 as bank statement information or rental pay-
7 ment information.

8 “(3) CONDITIONS.—The conditions described
9 under this paragraph are that an applicant described
10 under paragraph (1)—

11 “(A) requests the consideration of con-
12 sumer-permissioned alternative credit informa-
13 tion;

14 “(B) authorizes the provision of the con-
15 sumer-permissioned alternative credit informa-
16 tion to be considered; and

17 “(C) states that the applicant does not be-
18 lieve that credit information reported through
19 consumer reporting agencies fully or accurately
20 reflects the applicant’s creditworthiness in the
21 absence of the consumer-permissioned alter-
22 native credit information.

23 “(b) TREATMENT OF ADDITIONAL INFORMATION.—

24 “(1) IN GENERAL.—A creditor shall treat con-
25 sumer-permissioned alternative credit information in

1 the same manner and with the same weight as the
2 creditor would treat the same information if it were
3 provided by a consumer reporting agency, as defined
4 through regulations by the Director of the Bureau of
5 Consumer Financial Protection.

6 “(2) EXCEPTION.—A creditor may disregard
7 consumer-permissioned alternative credit information
8 if the creditor reasonably determines that such infor-
9 mation is the result of a material misrepresentation,
10 according to regulations provided by the Director of
11 the Bureau.

12 “(c) NOTICE TO APPLICANTS.—

13 “(1) IN GENERAL.—A creditor described under
14 subsection (a) shall provide each applicant for a
15 mortgage loan with a notice that includes—

16 “(A) an explanation of the applicant’s
17 right under this section to authorize the provi-
18 sion of additional credit information to the
19 creditor for consideration, including examples of
20 such additional information, as well as the ben-
21 efits of providing such information; and

22 “(B) the right of the creditor to disregard
23 any such information if the creditor reasonably
24 determines that the information is the result of

1 a material misrepresentation, according to regu-
2 lations provided by the Director of the Bureau.

3 “(2) NOTICE LANGUAGES.—Notices required
4 under paragraph (1) shall be made available in each
5 of the 8 languages most commonly spoken by indi-
6 viduals with limited English proficiency, as deter-
7 mined by the Director of the Bureau using informa-
8 tion published by the Director of the Bureau of the
9 Census.

10 “(3) FORM LANGUAGE.—The Director of the
11 Bureau shall establish form language, which shall be
12 used by each creditor when providing the notices re-
13 quired under this subsection, providing—

14 “(A) the examples described under para-
15 graph (1)(A);

16 “(B) the description of the benefits de-
17 scribed under paragraph (1)(A); and

18 “(C) the non-English language versions of
19 the notices described under paragraph (2).

20 “(d) CONSIDERATION OF CONSUMER-PERMISSIONED
21 ALTERNATIVE CREDIT INFORMATION.—A creditor shall
22 ensure that the consumer-permissioned alternative credit
23 information provided under the requirements of subsection
24 (a) shall be considered as part of the decisioning process.

25 “(e) TREATMENT OF UNDERWRITING SYSTEMS.—

1 “(1) IN GENERAL.—Any person, including any
2 Federal agency that insures, guarantees, supple-
3 ments, or assists a Federally backed single-family or
4 multifamily mortgage loan, who develops or main-
5 tains an underwriting system for mortgage loans
6 shall ensure such system complies with the require-
7 ments described under subsection (a).

8 “(2) RULEMAKING.—The Director of the Bu-
9 reau (in consultation with the Director of the Fed-
10 eral Housing Finance Agency, the Secretary of
11 Housing and Urban Development, and any other
12 Federal agency that insures, guarantees, supple-
13 ments, or assists a Federally backed single-family or
14 multifamily mortgage loan) may issue such regula-
15 tions as, in the judgement of the Director, may be
16 necessary to capture consumer-permissioned data in
17 automated underwriting systems.

18 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion shall affect whether a third party that supplies or fa-
20 cilitates the submission of consumer-permissioned alter-
21 native credit information is considered a consumer report-
22 ing agency under the Fair Credit Reporting Act

23 “(g) CONSUMER REPORTING AGENCY DEFINED.—In
24 this section, the term ‘consumer reporting agency’ has the

1 meaning given that term under section 603 of the Fair
2 Credit Reporting Act.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Equal Credit Opportunity Act is amended by in-
5 serting after the item relating to section 701 the following:

“701A. Requirement to consider additional credit information when making
mortgage loans.”.

6 (c) RULEMAKING; APPLICATION DATE.—Not later
7 than the end of the 18-month period beginning on the date
8 of enactment of this Act, the Director of the Bureau of
9 Consumer Financial Protection shall issue final rules to
10 carry out the amendments made by this section, and such
11 amendments shall apply to creditors on and after the ef-
12 fective date of such final rules.

