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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend the Equal Credit Opportunity Act to require creditors to consider certain additional credit information when making mortgage loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. WILLIAMS of Georgia introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Equal Credit Opportunity Act to require creditors to consider certain additional credit information when making mortgage loans, 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 “Expanding Access to
5 Credit through Consumer-Permissioned Data Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

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

9 (2) Approximately 45 million consumers do not
10 have any credit history with the NCRAs or did not
11 have enough credit history to be scored, according to
12 a 2015 report by the Bureau of Consumer Financial
13 Protection (CFPB), entitled “Data Point: Credit
14 Invisibles”. The CFPB also reported that this popu-
15 lation disproportionately included low-income con-
16 sumers, younger consumers, and consumers of color.

17 (3) The use of alternative data to establish a
18 low- or moderate-income borrower’s credit history
19 for the purpose of extending mortgage credit can
20 help lenders meet goals of the Community Reinvest-
21 ment Act.

22 (4) Mortgage underwriting systems that allow
23 lenders to use consumer-permissioned alternative
24 credit information may help expand access to mort-
25 gages for borrowers with lower credit scores and

1 communities of color. On September 21, 2021,
2 Fannie Mae updated its automated underwriting
3 system so that it notifies lenders that a borrower
4 may benefit from the inclusion of consistent rental
5 payment information, and with the consumer’s per-
6 mission, the underwriting system will automatically
7 identify rental payments within bank statement data
8 and include this in its credit assessment. According
9 to a fair lending and credit risk analysis by Fannie
10 Mae and the Federal Housing Finance Agency, the
11 populations most likely to benefit from this change
12 are applicants with lower credit scores, who are dis-
13 proportionately consumers of color.

14 **SEC. 3. REQUIREMENT TO CONSIDER ADDITIONAL CREDIT**
15 **INFORMATION WHEN MAKING MORTGAGE**
16 **LOANS.**

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

20 **“§ 701A. Requirement to consider additional credit**
21 **information when making mortgage loans**

22 “(a) IN GENERAL.—A creditor extending a mortgage
23 loan shall, in evaluating the creditworthiness of an appli-
24 cant, consider credit information not reported through a
25 consumer reporting agency, if—

1 “(1) the applicant—

2 “(A) requests such consideration;

3 “(B) authorizes the provision of the credit
4 information to be considered; and

5 “(C) states that the applicant does not be-
6 lieve that credit information reported through
7 consumer reporting agencies fully or accurately
8 reflects the applicant’s creditworthiness in the
9 absence of such information; and

10 “(2) the credit information relates to the types
11 of information that the creditor would consider if
12 otherwise reported and includes current payment
13 and transaction information, such as bank statement
14 information or rental payment information.

15 “(b) TREATMENT OF ADDITIONAL INFORMATION.—

16 A creditor shall treat any information provided pursuant
17 to subsection (a) in the same manner and with the same
18 weight as the creditor would treat the same information
19 if it were provided by a consumer reporting agency, as
20 defined through regulations by the Director of the Bureau
21 of Consumer Financial Protection, unless the creditor rea-
22 sonably determines that the information is the result of
23 a material misrepresentation, according to regulations
24 provided by the Director of the Bureau.

25 “(c) NOTICE TO APPLICANTS.—

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

4 “(A) an explanation of the applicant’s
5 right under this section to authorize the provi-
6 sion of additional credit information to the
7 creditor for consideration, including examples of
8 such additional information, as well as the ben-
9 efits of providing such information; and

10 “(B) the right of the creditor to disregard
11 any such information if the creditor determines,
12 according to regulations provided by the Direc-
13 tor of the Bureau, that the information is the
14 result of a material misrepresentation.

15 “(2) NOTICE LANGUAGES.—Notices required
16 under paragraph (1) shall be made available in each
17 of the 8 languages most commonly spoken by indi-
18 viduals with limited English proficiency, as deter-
19 mined by the Director of the Bureau using informa-
20 tion published by the Director of the Bureau of the
21 Census.

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

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

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

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

7 “(d) CONSIDERATION OF ALTERNATIVE DATA.—A
8 creditor shall ensure that the alternative data provided
9 under the requirements of subsection (a) shall be consid-
10 ered as part of the decisioning process.

11 “(e) TREATMENT OF UNDERWRITING SYSTEMS.—

12 “(1) IN GENERAL.—Any person, including any
13 Federal agency that insures, guarantees, supple-
14 ments, or assists a Federally backed single-family or
15 multifamily mortgage loan, who develops or main-
16 tains an underwriting system for mortgage loans
17 shall ensure such system complies with the require-
18 ments described under subsection (a).

19 “(2) RULEMAKING.—The Director of the Bu-
20 reau (in consultation with the Director of the Fed-
21 eral Housing Finance Agency, the Secretary of
22 Housing and Urban Development, and any other
23 Federal agency that insures, guarantees, supple-
24 ments, or assists a Federally backed single-family or
25 multifamily mortgage loan) may issue such regula-

1 tions as, in the judgement of the Director, may be
2 necessary to capture consumer-permissioned data in
3 automated underwriting systems.

4 “(f) CONSUMER REPORTING AGENCY DEFINED.—In
5 this section, the term ‘consumer reporting agency’ has the
6 meaning given that term under section 603 of the Fair
7 Credit Reporting Act.”.

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

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

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