117TH CONGRESS
2D SESSION

H. R. 8485

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

JULY 22, 2022

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

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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:

8   (1) Using alternative data in mortgage lending

9   (either through alternative credit scores or in under-

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

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

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

20 (4) Mortgage underwriting systems that allow
21 lenders to use consumer-permissioned alternative
22 credit information may help expand access to mort-
23 gages for borrowers with lower credit scores and
24 communities of color. On September 21, 2021,
25 Fannie Mae updated its automated underwriting

1 system so that it notifies lenders that a borrower

2 may benefit from the inclusion of consistent rental

3 payment information, and with the consumer's per-

4 mission, the underwriting system will automatically

5 identify rental payments within bank statement data

6 and include this in its credit assessment. According

7 to a fair lending and credit risk analysis by Fannie

8 Mae and the Federal Housing Finance Agency, the

9 populations most likely to benefit from this change

10 are applicants with lower credit scores, who are dis-

11 proportionately consumers of color.

12 **SEC. 3. REQUIREMENT TO CONSIDER ADDITIONAL CREDIT**

13 **INFORMATION WHEN MAKING MORTGAGE**

14 **LOANS.**

15 (a) IN GENERAL.—The Equal Credit Opportunity

16 Act (15 U.S.C. 1691 et seq.) is amended by inserting after

17 section 701 the following:

18 **"§ 701A. Requirement to consider additional credit**

19 **information when making mortgage loans**

20 "(a) IN GENERAL.—A creditor extending a mortgage

21 loan shall, in evaluating the creditworthiness of an appli-

22 cant, consider credit information not reported through a

23 consumer reporting agency, if—

24 "(1) the applicant—

25 "(A) requests such consideration;

1   "(B) authorizes the provision of the credit

2   information to be considered; and

3   "(C) states that the applicant does not be-

4   lieve that credit information reported through

5   consumer reporting agencies fully or accurately

6   reflects the applicant's creditworthiness in the

7   absence of such information; and

8   "(2) the credit information relates to the types

9   of information that the creditor would consider if

10   otherwise reported and includes current payment

11   and transaction information, such as bank statement

12   information or rental payment information.

13   "(b) TREATMENT OF ADDITIONAL INFORMATION.—

14 A creditor shall treat any information provided pursuant

15 to subsection (a) in the same manner and with the same

16 weight as the creditor would treat the same information

17 if it were provided by a consumer reporting agency, as

18 defined through regulations by the Director of the Bureau

19 of Consumer Financial Protection, unless the creditor rea-

20 sonably determines that the information is the result of

21 a material misrepresentation, according to regulations

22 provided by the Director of the Bureau.

23   "(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.

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