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:

SECTION 1. SHORT TITLE.

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

SEC. 2. OFFICE OF FAIR LENDING TESTING.

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

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

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

(2) appoint and fix the compensation of such employees as are necessary to carry out the duties of the Office under this section; and
(3) provide an estimated annual budget to the Director of the Bureau of Consumer Financial Protection.

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

(d) TESTING.—

(1) IN GENERAL.—The Office, in consultation with the Attorney General and the Secretary of Housing and Urban Development, shall conduct testing of compliance with the Equal Credit Opportunity Act by creditors, through the use of individuals who, without any bona fide intent to receive a loan, pose as prospective borrowers for the purpose of gathering information.

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

(e) REPORT TO CONGRESS.—Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by adding at the end the following: “In addition, each report of the Bureau shall include an analysis of the testing carried out pursuant to section 2 of the Fair Lend-
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1 ing for All Act, and each report of the Bureau and the
2 Attorney General shall include a summary of criminal en-
3forcement actions taken under section 706A.”.

4 SEC. 3. PROHIBITION ON CREDIT DISCRIMINATION.
5
6 (a) IN GENERAL.—Subsection (a) of section 701 of
7 the Equal Credit Opportunity Act (15 U.S.C. 1691) is
8 amended to read as follows:
9 “(a) It shall be unlawful to discriminate against any
10 person, with respect to any aspect of a credit trans-
11 action—
12 “(1) on the basis of race, color, religion, na-
13 tional origin, sex (including sexual orientation and
14 gender identity), marital status, or age (provided the
15 applicant has the capacity to contract);
16 “(2) on the basis of the person’s zip code, or
17 census tract;
18 “(3) because all or part of the person’s income
19 derives from any public assistance program; or
20 “(4) because the person has in good faith exer-
21 cised any right under the Consumer Credit Protec-
22 tion Act.”.
23 (b) REMOVAL OF CERTAIN REFERENCES TO CREDI-
24 TORS AND APPLICANTS AND DEFINITION ADDED.—The
26 is amended—

(1) in section 701(b)—
   (A) by striking “applicant” each place such term appears and inserting “person”; and
   (B) in paragraph (2), by striking “applicant’s” each place such term appears and inserting “person’s”;
(2) in section 702—
   (A) by redesignating subsection (g) as subsection (h); and
   (B) by inserting after subsection (f) the following:
   “(g) The term ‘aggrieved person’ includes any person who—
   “(1) claims to have been injured by a discriminatory credit practice; or
   “(2) believes that such person will be injured by a discriminatory credit practice.”;
(3) in section 704A—
   (A) in subsection (b)(1), by striking “applicant” each place such term appears and inserting “aggrieved person”; and
   (B) in subsection (c), by striking “applicant” and inserting “aggrieved person”;
(4) in section 705—
(A) by striking “the applicant” each place such term appears and inserting “persons”; and

(B) in subsection (a)—

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

(ii) by striking “applicant” and inserting “person”; and

(5) in section 706—

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

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

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

(D) in subsection (f), by striking “applicant” and inserting “aggrieved person”.

SEC. 4. CRIMINAL PENALTIES FOR VIOLATIONS OF THE

EQUAL CREDIT OPPORTUNITY ACT.

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

“§ 706A. Criminal penalties

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

“(b) PATTERN OR PRACTICE.—

“(1) IN GENERAL.—Any person who engages in a pattern or practice of knowingly and willfully violating this title shall be fined not more than $100,000 for each violation of this title, or imprisoned not more than twenty years, or both.

“(2) PERSONAL LIABILITY OF EXECUTIVE OFFICERS AND DIRECTORS OF THE BOARD.—Any executive officer or director of the board of an entity who knowingly and willfully causes the entity to engage in a pattern or practice of knowingly and willfully violating this title (or who directs another agent, senior officer, or director of the entity to commit such a violation or engage in such acts that result in the director or officer being personally unjustly enriched) shall be—

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

“(i) during the time period in which the violations occurred; or
“(ii) in the one to three year time period preceding the date on which the violations were discovered; and

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

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

“706A. Criminal penalties.”

SEC. 5. REVIEW OF LOAN APPLICATIONS.

(a) In General.—Subtitle C of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5531 et seq.) is amended by adding at the end the following:

“SEC. 1038. REVIEW OF LOAN APPLICATIONS.

“(a) In General.—The Bureau shall carry out reviews of loan applications and the process of taking loan applications being used by covered persons to ensure such applications and processes do not violate the Equal Credit Opportunity Act or any other Federal consumer financial law.

“(b) Prohibition and Enforcement.—If the Bureau determines under subsection (a) that any loan application or process of taking a loan application violates the Equal Credit Opportunity Act or any other Federal consumer financial law, the Bureau shall—
“(1) prohibit the covered person from using
such application or process; and
“(2) take such enforcement or other actions
with respect to the covered person as the Bureau de-
termines appropriate.”.

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

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

SEC. 6. MORTGAGE DATA COLLECTION.

(a) IN GENERAL.—Section 304(b)(4) of the Home
is amended by striking “census tract, income level, racial
characteristics, age, and gender” and inserting “the appli-
cant or borrower’s zip code, census tract, income level,
race, color, religion, national origin, sex, marital status,
sexual orientation, gender identity, and age”.

(b) PROTECTION OF PRIVACY INTERESTS.—Section
304(h)(3)(A) of the Home Mortgage Disclosure Act of

(1) in clause (i), by striking “and” at the end;
(2) by redesignating clause (ii) as clause (iii);
and
(3) by inserting after clause (i) the following:
“(ii) zip code, census tract, and any other category of data described in subsection (b)(4), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner 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.”.