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 and to provide for criminal penalties for violating such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on ____________________________

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 and to provide for criminal penalties for violating such Act, 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 “Fair Lending for All
5 Act”.

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December 22, 2020 (8:25 a.m.) g:\VHLC\122220\122220.001.xml (783628|2)
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 Lending for All Act, and each report of the Bureau and the Attorney General shall include a summary of criminal enforcement actions taken under section 706A.”.

SEC. 3. PROHIBITION ON CREDIT DISCRIMINATION.

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

“(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

“(1) on the basis of race, color, religion, national origin, sex (including sexual orientation and
gender identity), marital status, or age (provided the
applicant has the capacity to contract);

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

“(3) because all or part of the applicant’s in-
come derives from any public assistance program; or

“(4) because the applicant has in good faith ex-
ercised any right under the Consumer Credit Protec-
tion Act.”.

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 vio-
lating this title shall be fined not more than
$100,000 for each violation of this title, or impris-
oned 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 determines 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 Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)(4)) is amended by striking “census tract, income level, racial characteristics, age, and gender” and inserting “the applicant or borrower’s zip code, census tract, income level, race, color, religion, national origin, sex, marital status, sexual orientation, and age”.


(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”.