H.R. 11

To amend the Community Reinvestment Act of 1977 to improve the assessment process for financial institutions under that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Waters introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Community Reinvestment Act of 1977 to improve the assessment process for financial institutions under that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Making Communities Stronger through the Community Reinvestment Act”.

SEC. 2. FINDING.

The Congress finds that Senator William Proxmire, who authored the Community Reinvestment Act of 1977
legislation, testified when discussing its purpose: “By red-lining...I am talking about the fact that banks and savings and loans will take their deposits from a community and instead of reinvesting them in that community, they will actually or figuratively draw a red line on a map around the areas of their city, sometimes in the inner city, sometimes in the older neighborhoods, sometimes ethnic and sometimes black, but often encompassing a great area of their neighborhood.”.

SEC. 3. ASSESSMENT OF COMMUNITY SERVICE.

(a) In General.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following:

“(e) Assessment of Community Service.—

“(1) In General.—In assessing and taking into account, under subsection (a), any community service or charity work performed by the executives, board members, and employees of a financial institution, the appropriate Federal financial supervisory agency may not give any credit for such service or work unless—

“(A) the executives, board members, and employees performing such service or work were acting as representatives of the financial insti-
tution at the time the service or work were performed;

“(B) with respect to a financial institution with total consolidated assets of at least $2,000,000,000, the financial institution—

“(i) collects and maintains relevant information with respect to the community service and charity work of the financial institution, in a format prescribed by the appropriate Federal financial supervisory agency; and

“(ii) reports such information on an annual basis to the appropriate Federal financial supervisory agency; and

“(C) the financial institution demonstrates the impact of the community service or charity work on low- and moderate-income neighborhoods, including whether the community service or charity work—

“(i) serves persistent poverty counties;

“(ii) serves geographic areas with low levels of community development financing;

“(iii) supports a minority depository institution, women’s depository institution, low-income credit union, or a community
development financial institution certified
by the Secretary of the Treasury;

“(iv) serves low-income individuals
and families;

“(v) supports small businesses or
small farms with gross annual revenues of
$250,000 or less;

“(vi) directly facilitates the acquisi-
tion, construction, development, preserva-
tion, or improvement of affordable housing
in high opportunity areas;

“(vii) benefits Native communities,
such as—

“(I) revitalization activities in
Native Land Areas;

“(II) essential community facili-
ties in Native Land Areas;

“(III) essential community infra-
structure in Native Land Areas; and

“(IV) disaster preparedness and
climate resiliency activities in Native
Land Areas;

“(viii) reflects a high degree of en-
gagement with community partners, and
are highly responsive to the needs of low-income communities;

“(ix) result in a new community development financing product or service that addresses community development needs for low- or moderate-income individuals and families; or

“(x) serves limited English proficient communities.

“(2) DEFINITIONS.—In this subsection:

“(A) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ‘community development financial institution’ has the meaning given that term under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702).

“(B) HIGH OPPORTUNITY AREA.—The term ‘high opportunity area’ means an area—

“(i) designated by—

“(I) the Secretary of Housing and Urban Development as a Difficult Development Area; or

“(II) a State or local qualified allocation plan as a high opportunity area; and
“(ii) with a poverty rate below—

“(I) 10 percent, with respect to a metropolitan area; or

“(II) 15 percent, with respect to an area that is not a metropolitan area.

“(C) NATIVE LAND AREA.—The term ‘Native Land Area’ means—

“(i) all land within the limits of any Indian reservation under the jurisdiction of the Federal Government, as described in section 1151(a) of title 18, United States Code;

“(ii) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, as described in section 1151(b) of title 18, United States Code;

“(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same, as defined in section 1151(c) of title 18, United States Code;
“(iv) any land held in trust by the United States for Native Americans, as described in section 3765(1)(A) of title 38, United States Code;

“(v) reservations established by a State government for a Tribe or Tribes recognized by the State;

“(vi) any Alaska Native village as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602);

“(vii) lands that have the status of Hawaiian Home Lands as defined in section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108);

“(viii) areas defined by the Bureau of the Census as Alaska Native Village Statistical Areas, Oklahoma Tribal Statistical Areas, Tribal-Designated Statistical Areas, or American Indian Joint-Use Areas; and

“(ix) land areas of State-recognized Indian tribes and heritage groups that are defined and recognized by individual States and included in the annual Boundary and Annexation Survey of the Bureau of the Census.
“(D) Persistent poverty county.—

Term ‘persistent poverty county’ means a county that has had poverty rates of 20 percent or more for the past 30 years, as measured by the most recent decennial censuses.”.

(b) Effective date.—Section 804(e) of the Community Reinvestment Act of 1977, as added by subsection (a), shall take effect after the end of the 90-day period beginning on the date of enactment of this Act.

SEC. 4. Treatment of illegal and discriminatory activity.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903), as amended by section 3, is further amended by adding at the end the following:

“(f) Treatment of illegal or discriminatory activity.—

“(1) In general.—In assessing and taking into account, under subsection (a), the record of a financial institution, the appropriate Federal financial supervisory agency shall give negative credit for any activity of the financial institution, a subsidiary of the financial institution, or an entity partnering with the financial institution or subsidiary that includes evidence of an illegal or discriminatory practice, including—
“(A) activity that harms, including by displacing, residents of low- and moderate-income neighborhoods;

“(B) any violation of Federal law, regardless of whether the violation is credit-related or not, including any violation of section 987(b) of title 10, United States Code (commonly referred to as the ‘Military Lending Act’), the Servicemembers Civil Relief Act, or prohibitions against unfair, deceptive, or abusive acts or practices;

“(C) any violation of State law; and

“(D) any evidence of discriminatory practices obtained by—

“(i) the Bureau of Consumer Financial Protection as a part of the Bureau’s regular supervision of the financial institution, subsidiary, or entity; and

“(ii) the Department of Housing and Urban Development.

“(2) CONSIDERATIONS.—In determining the treatment of any illegal or discriminatory activity described under paragraph (1), the appropriate Federal financial supervisory agency shall consider—

“(A) the root cause of the activity;
“(B) the severity of the harm to individuals and communities as a result of the activity;
“(C) the duration of time of the activity;
and
“(D) the pervasiveness of the activity.
“(3) TREATMENT ON TESTS AND OVERALL ASSESSMENT.—If, in performing an assessment of a financial institution under subsection (a), the appropriate Federal financial supervisory agency uses separate tests or other evaluations as part of the calculation of the overall assessment, the agency shall give negative credit on both the overall assessment and any applicable test or evaluation.”.

SEC. 5. COMMUNITY ADVISORY COMMITTEES.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903), as amended by section 4, is further amended by adding at the end the following:
“(g) COMMUNITY ADVISORY COMMITTEES.—
“(1) IN GENERAL.—Each financial institution shall form a separate Community Advisory Committee (which shall be composed of a diverse set of consumer, housing, community development, and other stakeholder groups representing the applicable metropolitan statistical area) in each of the fol-
“(A) With respect to a financial institution with consolidated assets equal to or greater than $2,000,000,000, each metropolitan statistical area where the financial institution or any subsidiaries of the financial institution have a branch or other facility (including an automated teller machine) and each metropolitan statistical area where the financial institution has a substantial number of customers who maintain deposit accounts with the financial institution.

“(B) With respect to a financial institution with consolidated assets of less than $2,000,000,000, each State where the financial institution or any subsidiaries of the financial institution are located.

“(2) QUARTERLY CONSULTATION.—The executives of a financial institution shall meet with all the financial institution’s Community Advisory Committees on a quarterly basis—

“(A) to discuss the financial institution’s current work to meet the credit and deposit needs of low- and moderate-income individuals and underserved communities, persons with disabilities, LGBTQ+ communities, and Chinese, Asian Indian, Filipino, Japanese, Korean, Viet-
namese, Pakistani, Cambodian, Hmong, Laotian, Thai, Taiwanese, Burmese, Bangladeshi, Nepalese, Indonesian, Malaysian, Hispanic or Latino, Black or African American, American Indian and Alaska Native, Native Hawaiian, Samoan, Chamorro, Tongan, iTaukei, Marshallese, and Other Pacific Islander communities, as applicable to the financial institution’s geographic areas;

“(B) with respect to a financial institution with consolidated assets equal to or greater than $2,000,000,000, to assist the executives in developing and updating a plan for how the institution will work to meet the credit needs of the institution’s entire community, including low- and moderate-income neighborhoods; and

“(C) to discuss the institution’s data (which shall be disaggregated by Chinese, Asian Indian, Filipino, Japanese, Korean, Vietnamese, Pakistani, Cambodian, Hmong, Laotian, Thai, Taiwanese, Burmese, Bangladeshi, Nepalese, Indonesian, Malaysian, Hispanic or Latino, Black or African American, American Indian and Alaska Native, and Native Hawaiian, Samoan, Chamorro, Tongan, iTaukei, Marshallese
and Other Pacific Islander communities, as applicable to the financial institution’s geographic areas) on—

“(i) mortgage lending and lending to small businesses and small farms; and

“(ii) retail products and services;

“(iii) community development services; and

“(iv) community development financing.

“(3) SPECIFIC CONSULTATIONS.—In addition to the quarterly consultations required under paragraph (2), the executives of a financial institution with consolidated assets of more than $2,000,000,000 shall meet with the Community Advisory Committee before—

“(A) the financial institution applies for a merger or acquisition;

“(B) the financial institution, or any subsidiary of the financial institution, applies for deposit insurance;

“(C) the financial institution applies to open a new branch or to relocate an existing branch; or
“(D) the financial institution provides notice that it would close of a branch or other facility.”.

SEC. 6. CONSIDERATION OF LENDING IN PARTNERSHIP WITH NON-DEPOSITORY LENDERS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903), as amended by section 5, is further amended by adding at the end the following:

“(h) CONSIDERATION OF LENDING IN PARTNERSHIP WITH NON-DEPOSITORY LENDERS.—

“(1) IN GENERAL.—As part of assessing a financial institution under subsection (a), the appropriate Federal financial supervisory agency shall evaluate the financial institution’s performance in originating small farm loans, consumer loans (including residential mortgages, unsecured installment loans, advances, and lines of credit), and loans for small businesses (including unsecured installment loans, advances, and lines of credit) in partnership with one or more non-depository lenders.

“(2) AFFORDABILITY AND SUSTAINABILITY.—In making the evaluation described under paragraph (1), the appropriate Federal financial supervisory agency shall consider the affordability and sustain-
ability of the loan originations made in partnership
with one or more non-depository lenders.

“(3) DEFINITIONS.—In this subsection:

“(A) NON-DEPOSITORY LENDER.—The
term ‘non-depository lender’ means a lender
that is not an insured depository institution (as
defined in section 3 of the Federal Deposit In-
surance Act (12 U.S.C. 1813)).

“(B) SMALL BUSINESS.—The term ‘small
business’ means a small business concern (as
defined under section 3 of the Small Business
Act (15 U.S.C. 632)), except such term shall
not include any small business concern with
gross annual revenue of greater than
$5,000,000 for the preceding fiscal year.

“(C) SMALL FARM LOAN.—The term
‘small farm loan’ means a loan—

“(i) originated in an amount of
$500,000 or less; and

“(ii) that is reported as a—

“(I) loan to finance agricultural
production and other loan to farmers;
or

“(II) loan secured by farmland.”.
Sec. 7. Consideration of Small Home Mortgage Lending.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903), as amended by section 6, is further amended by adding at the end the following:

“(i) Consideration of Small Home Mortgage Lending.—

“(1) In general.—As part of assessing a financial institution under subsection (a), the appropriate Federal financial supervisory agency shall evaluate the financial institution’s performance in facilitating home mortgage lending targeted to low- and moderate-income borrowers in a safe and sound manner, including—

“(A) small-dollar, first-lien mortgages of $100,000 or less in value that facilitate a home purchase or help a borrower to refinance an existing mortgage; and

“(B) mortgages of any size originated in cooperation with a minority depository institution, women’s depository institution, low-income credit union, or a community development financial institution certified by the Secretary of the Treasury (as defined under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994).
“(2) DATA COLLECTION AND REPORTING BY LARGE FINANCIAL INSTITUTIONS.—

“(A) IN GENERAL.—Each large financial institution shall collect, maintain, and report to the appropriate Federal financial supervisory agency—

“(i) mortgage loan data needed to calculate retail lending volume and distribution metrics;

“(ii) information related to demographics of borrowers, including the income, gender identity, sexual orientation, race, and ethnicity of mortgage applicants;

“(iii) the number of mortgage loans originated with a value of $100,000 or less, as well as the demographics of borrowers, including income, gender, race, and ethnicity; and

“(iv) if the financial institution has a special purpose credit program that focuses on borrowers from Hispanic or Latino, Black or African American, Chinese, Asian Indian, Filipino, Japanese, Korean, Vietnamese, Pakistani, Cambodian, Hmong, Laotian, Thai, Taiwanese, Bur-
mese, Bangladeshi, Nepalese, Indonesian, Malaysian, American Indian and Alaska Native, Native Hawaiian, Samoan, Chamorro, Tongan, iTaukei, Marshallese, and Other Pacific Islander communities, all mortgage loans originated by the financial institution under such program that are made for the purpose of a home purchase or to refinance a mortgage loan made for the purpose of a home purchase.

“(B) TEMPLATE.—The appropriate Federal financial supervisory agencies shall, jointly, issue rules to establish a template that large financial institutions shall use to collect information required to be collected under this paragraph.

“(3) ADDITIONAL CONSIDERATION OF SMALL DOLLAR MORTGAGES BY SMALL AND INTERMEDIATE FINANCIAL INSTITUTIONS.—

“(A) IN GENERAL.—As part of assessing a small or intermediate financial institution under subsection (a), the appropriate Federal financial supervisory agency shall, at the request of the financial institution, provide additional consideration of any mortgages extended by the fi-
financial institution that are small-dollar mortgages of $100,000 or less in value that facilitate a home purchase or help a borrower to refinance an existing mortgage.

“(B) RATING ADJUSTMENT.—If the appropriate Federal financial supervisory agency planned to assign a rating under section 807(b)(2) to a small or intermediate financial institution of ‘Satisfactory record of meeting community credit needs’, the appropriate Federal financial supervisory agency may, after the additional consideration described under subparagraph (A), change such rating to ‘Outstanding record of meeting community credit needs’, if the appropriate Federal financial supervisory agency determines such change is appropriate.

“(4) DEFINITIONS.—The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall, jointly, define the terms ‘large financial institution’ and ‘small or intermediate financial institution’ for purposes of this subsection.”.
SEC. 8. STUDY ON DISCRIMINATION AND DISPARITIES IN ACCESS TO CREDIT.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following:

“SEC. 810. STUDY ON DISCRIMINATION AND DISPARITIES IN ACCESS TO CREDIT.

“(a) Study.—Not later than the end of the 2-year period beginning on the date of enactment of this section, and every 2 years thereafter, the appropriate Federal financial supervisory agencies shall, jointly, and in consultation with such other Federal or State agencies as the appropriate Federal financial supervisory agencies determine appropriate, complete an interagency statistical study to identify metropolitan areas and rural counties that either experience ongoing discrimination or exhibit significant racial disparities in access to credit for any racial or ethnic group.

“(b) Use of Data.—In carrying out each study required under subsection (a), the appropriate Federal financial supervisory agencies shall make use of—

“(1) data obtained under the Home Mortgage Disclosure Act of 1975;

“(2) data obtained under section 704B of the Equal Credit Opportunity Act;

“(3) available State data; and
“(4) information contained in public litigation against regulated financial institutions for redlining or lending discrimination (including litigation initiated by the Bureau of Consumer Financial Protection, the Department of Housing and Urban Affairs, the Department of Justice, or by private parties).

“(c) REPORT.—Upon the completion of each study required under subsection (a), the appropriate Federal financial supervisory agencies shall, jointly, issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, containing—

“(1) all findings and determinations made in carrying out the study; and

“(2) policy recommendations to remedy the discrimination and disparities identified in the study.”.