

116TH CONGRESS  
1ST SESSION

# H. R. 166

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

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

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## 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”.

1 **SEC. 2. OFFICE OF FAIR LENDING TESTING.**

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

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

8 (1) be appointed to a 5-year term by, and re-  
9 port to, the Director of the Bureau of Consumer Fi-  
10 nancial Protection;

11 (2) appoint and fix the compensation of such  
12 employees as are necessary to carry out the duties  
13 of the Office under this section; and

14 (3) provide an estimated annual budget to the  
15 Director of the Bureau of Consumer Financial Pro-  
16 tection.

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

19 (d) TESTING.—

20 (1) IN GENERAL.—The Office, in consultation  
21 with the Attorney General and the Secretary of  
22 Housing and Urban Development, shall conduct  
23 testing of compliance with the Equal Credit Oppor-  
24 tunity Act by creditors, through the use of individ-  
25 uals who, without any bona fide intent to receive a

1 loan, pose as prospective borrowers for the purpose  
2 of gathering information.

3 (2) REFERRAL OF VIOLATIONS.—If, in carrying  
4 out the testing described under paragraph (1), the  
5 Office believes a person has violated the Equal Cred-  
6 it Opportunity Act, the Office shall refer such viola-  
7 tion in writing to the Attorney General for appro-  
8 priate action.

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

17 **SEC. 3. PROHIBITION ON CREDIT DISCRIMINATION.**

18 Subsection (a) of 701 of the Equal Credit Oppor-  
19 tunity Act (15 U.S.C. 1691) is amended to read as follows:

20 “(a) It shall be unlawful for any creditor to discrimi-  
21 nate against any applicant, with respect to any aspect of  
22 a credit transaction—

23 “(1) on the basis of race, color, religion, na-  
24 tional origin, sex (including sexual orientation and

1 gender identity), marital status, or age (provided the  
2 applicant has the capacity to contract);

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

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

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

10 **SEC. 4. CRIMINAL PENALTIES FOR VIOLATIONS OF THE**  
11 **EQUAL CREDIT OPPORTUNITY ACT.**

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

15 **“§ 706A. Criminal penalties**

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

20 “(b) PATTERN OR PRACTICE.—

21 “(1) IN GENERAL.—Any person who engages in  
22 a pattern or practice of knowingly and willfully vio-  
23 lating this title shall be fined not more than  
24 \$100,000 for each violation of this title, or impris-  
25 oned not more than twenty years, or both.

1           “(2) PERSONAL LIABILITY OF EXECUTIVE OFFI-  
 2           CERS AND DIRECTORS OF THE BOARD.—Any execu-  
 3           tive officer or director of the board of an entity who  
 4           knowingly and willfully causes the entity to engage  
 5           in a pattern or practice of knowingly and willfully  
 6           violating this title (or who directs another agent,  
 7           senior officer, or director of the entity to commit  
 8           such a violation or engage in such acts that result  
 9           in the director or officer being personally unjustly  
 10          enriched) shall be—

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

15                         “(i) during the time period in which  
 16                         the violations occurred; or

17                         “(ii) in the one to three year time pe-  
 18                         riod preceding the date on which the viola-  
 19                         tions were discovered; and

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

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

“706A. Criminal penalties.”.

1 **SEC. 5. REVIEW OF LOAN APPLICATIONS.**

2 (a) IN GENERAL.—Subtitle C of the Consumer Fi-  
 3 nancial Protection Act of 2010 (12 U.S.C. 5531 et seq.)  
 4 is amended by adding at the end the following:

5 **“SEC. 1038. REVIEW OF LOAN APPLICATIONS.**

6 “(a) IN GENERAL.—The Bureau shall carry out re-  
 7 views of loan applications and the process of taking loan  
 8 applications being used by covered persons to ensure such  
 9 applications and processes do not violate the Equal Credit  
 10 Opportunity Act or any other Federal consumer financial  
 11 law.

12 “(b) PROHIBITION AND ENFORCEMENT.—If the Bu-  
 13 reau determines under subsection (a) that any loan appli-  
 14 cation or process of taking a loan application violates the  
 15 Equal Credit Opportunity Act or any other Federal con-  
 16 sumer financial law, the Bureau shall—

17 “(1) prohibit the covered person from using  
 18 such application or process; and

19 “(2) take such enforcement or other actions  
 20 with respect to the covered person as the Bureau de-  
 21 termines appropriate.”.

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

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

1 **SEC. 6. MORTGAGE DATA COLLECTION.**

2 (a) IN GENERAL.—Section 304(b)(4) of the Home  
3 Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)(4))  
4 is amended by striking “census tract, income level, racial  
5 characteristics, age, and gender” and inserting “the appli-  
6 cant or borrower’s zip code, census tract, income level,  
7 race, color, religion, national origin, sex, marital status,  
8 sexual orientation, and age”.

9 (b) PROTECTION OF PRIVACY INTERESTS.—Section  
10 304(h)(3)(A) of the Home Mortgage Disclosure Act of  
11 1975 (12 U.S.C. 2803(h)(3)(A)) is amended—

12 (1) in clause (i), by striking “and” at the end;

13 (2) by redesignating clause (ii) as clause (iii);

14 and

15 (3) by inserting after clause (i) the following:

16 “(ii) zip code, census tract, and any  
17 other category of data described in sub-  
18 section (b)(4), as the Bureau determines to  
19 be necessary to satisfy the purpose de-  
20 scribed in paragraph (1)(E), and in a man-  
21 ner consistent with that purpose; and”.

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