

AMENDMENT TO THE RULES COMMITTEE PRINT

117-49

OFFERED BY MS. WILLIAMS OF GEORGIA

Add at the end the following:

1 **TITLE VI—“EXPANDING ACCESS**
2 **TO CREDIT THROUGH CON-**
3 **SUMER-PERMISSIONED DATA”**

4 **SEC. 601. SHORT TITLE.**

5 This title may be cited as the “Expanding Access to
6 Credit through Consumer-Permissioned Data Act”.

7 **SEC. 602. FINDINGS.**

8 The Congress finds the following:

9 (1) Using alternative data in mortgage lending
10 (either through alternative credit scores or in under-
11 writing) has the potential to increase access to credit
12 for individuals with little or no credit history with
13 the national credit reporting agencies (NCRAs), ac-
14 cording to a review of alternative data use in mort-
15 gage lending by the Government Accountability Of-
16 fice in December 2021.

17 (2) Approximately 45 million consumers do not
18 have any credit history with the NCRAs or did not
19 have enough credit history to be scored, according to

1 a 2015 report by the Bureau of Consumer Financial
2 Protection (CFPB), entitled “Data Point: Credit
3 Invisibles”. The CFPB also reported that this popu-
4 lation disproportionately included low-income con-
5 sumers, younger consumers, and consumers of color.

6 (3) The use of alternative data to establish a
7 low- or moderate-income borrower’s credit history
8 for the purpose of extending mortgage credit can
9 help lenders meet goals of the Community Reinvest-
10 ment Act.

11 (4) Mortgage underwriting systems that allow
12 lenders to use consumer-permissioned alternative
13 credit information may help expand access to mort-
14 gages for borrowers with lower credit scores and
15 communities of color. On September 21, 2021,
16 Fannie Mae updated its automated underwriting
17 system so that it notifies lenders that a borrower
18 may benefit from the inclusion of consistent rental
19 payment information, and with the consumer’s per-
20 mission, the underwriting system will automatically
21 identify rental payments within bank statement data
22 and include this in its credit assessment. According
23 to a fair lending and credit risk analysis by Fannie
24 Mae and the Federal Housing Finance Agency, the
25 populations most likely to benefit from this change

1 are applicants with lower credit scores, who are dis-
2 proportionately consumers of color.

3 **SEC. 603. REQUIREMENT TO CONSIDER ADDITIONAL CRED-**
4 **IT INFORMATION WHEN MAKING MORTGAGE**
5 **LOANS.**

6 (a) IN GENERAL.—The Equal Credit Opportunity
7 Act (15 U.S.C. 1691 et seq.) is amended by inserting after
8 section 701 the following:

9 **“§ 701A. Requirement to consider additional credit**
10 **information when making mortgage loans**

11 “(a) IN GENERAL.—A creditor extending a mortgage
12 loan shall, in evaluating the creditworthiness of an appli-
13 cant, consider credit information not reported through a
14 consumer reporting agency, if—

15 “(1) the applicant—

16 “(A) requests such consideration, and has
17 not retracted such request;

18 “(B) provides the credit information to be
19 considered; and

20 “(C) states that the applicant does not be-
21 lieve that credit information reported through
22 consumer reporting agencies fully or accurately
23 reflects the applicant’s creditworthiness in the
24 absence of such information; and

1 “(2) the credit information relates to the types
2 of information that the creditor would consider if
3 otherwise reported and includes current payment
4 and transaction information, such as bank statement
5 information or rental payment information.

6 “(b) TREATMENT OF ADDITIONAL INFORMATION.—
7 A creditor shall treat any information provided pursuant
8 to subsection (a) in the same manner and with the same
9 weight as the creditor would treat the same information
10 if it were provided by a consumer reporting agency, unless
11 the creditor reasonably determines that the information is
12 the result of a material misrepresentation.

13 “(c) NOTICE TO APPLICANTS.—

14 “(1) IN GENERAL.—A creditor described under
15 subsection (a) shall provide each applicant for a
16 mortgage loan with a notice that includes—

17 “(A) an explanation of the applicant’s
18 right under this section to provide additional
19 credit information to the creditor for consider-
20 ation, including examples of such additional in-
21 formation, as well as the benefits of providing
22 such information;

23 “(B) the right of the creditor to disregard
24 any such information if the creditor determines

1 that the information is the result of a material
2 misrepresentation; and

3 “(C) the right of an applicant to retract
4 the applicant’s request to use such additional
5 credit information at any point in the applica-
6 tion process.

7 “(2) NOTICE LANGUAGES.—Notices required
8 under paragraph (1) shall be made available in each
9 of the 8 languages most commonly spoken by indi-
10 viduals with limited English proficiency, as deter-
11 mined by the Director of the Bureau using informa-
12 tion published by the Director of the Bureau of the
13 Census.

14 “(3) FORM LANGUAGE.—The Director of the
15 Bureau shall establish form language, which shall be
16 used by each creditor when providing the notices re-
17 quired under this subsection, providing—

18 “(A) the examples described under para-
19 graph (1)(A);

20 “(B) the description of the benefits de-
21 scribed under paragraph (1)(A); and

22 “(C) the non-English language versions of
23 the notices described under paragraph (2).

24 “(d) CONSIDERATION OF ALTERNATIVE DATA;
25 TREATMENT OF UNDERWRITING SYSTEMS.—A creditor

1 shall ensure that the alternative data provided under the
2 requirements of subsection (a) shall be considered as part
3 of the decisioning process. Any creditor who develops or
4 maintains an underwriting system for mortgage loans
5 shall ensure such system complies with the requirements
6 described under subsection (a).

7 “(e) CONSUMER REPORTING AGENCY DEFINED.—In
8 this section, the term ‘consumer reporting agency’ has the
9 meaning given that term under section 603 of the Fair
10 Credit Reporting Act.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
12 for the Equal Credit Opportunity Act is amended by in-
13 serting after the item relating to section 701 the following:

“701A. Requirement to consider additional credit information when making
mortgage loans.”.

