

[DISCUSSION DRAFT]

117TH CONGRESS
2^D SESSION

H. R. _____

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

M____. _____ 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.

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 “Making Communities
5 Stronger through the Community Reinvestment Act”.

6 **SEC. 2. FINDING.**

7 The Congress finds that Senator William Proxmire,
8 who authored the Community Reinvestment Act of 1977

1 legislation, testified when discussing its purpose: “By red-
2 lining...I am talking about the fact that banks and savings
3 and loans will take their deposits from a community and
4 instead of reinvesting them in that community, they will
5 actually or figuratively draw a red line on a map around
6 the areas of their city, sometimes in the inner city, some-
7 times in the older neighborhoods, sometimes ethnic and
8 sometimes black, but often encompassing a great area of
9 their neighborhood.”.

10 **SEC. 3. ASSESSMENT OF COMMUNITY SERVICE.**

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

14 “(e) ASSESSMENT OF COMMUNITY SERVICE.—

15 “(1) IN GENERAL.—In assessing and taking
16 into account, under subsection (a), any community
17 service or charity work performed by the executives,
18 board members, and employees of a financial institu-
19 tion, the appropriate Federal financial supervisory
20 agency may not give any credit for such service or
21 work unless—

22 “(A) the executives, board members, and
23 employees performing such service or work were
24 acting as representatives of the financial insti-

1 tution at the time the service or work were per-
2 formed;

3 “(B) with respect to a financial institution
4 with total consolidated assets of at least
5 \$2,000,000,000, the financial institution—

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

12 “(ii) reports such information on an
13 annual basis to the appropriate Federal fi-
14 nancial supervisory agency; and

15 “(C) the financial institution demonstrates
16 the impact of the community service or charity
17 work on low- and moderate-income neighbor-
18 hoods, including whether the community service
19 or charity work—

20 “(i) serves persistent poverty counties;

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

23 “(iii) supports a minority depository
24 institution, women’s depository institution,
25 low-income credit union, or a community

1 development financial institution certified
2 by the Secretary of the Treasury;

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

5 “(v) supports small businesses or
6 small farms with gross annual revenues of
7 \$250,000 or less;

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

12 “(vii) benefits Native communities,
13 such as—

14 “(I) revitalization activities in
15 Native Land Areas;

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

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

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

23 “(viii) reflects a high degree of en-
24 gagement with community partners, and

1 are highly responsive to the needs of low-
2 income communities;

3 “(ix) result in a new community devel-
4 opment financing product or service that
5 addresses community development needs
6 for low- or moderate-income individuals
7 and families; or

8 “(x) serves limited English proficient
9 communities.

10 “(2) DEFINITIONS.—In this subsection:

11 “(A) COMMUNITY DEVELOPMENT FINAN-
12 CIAL INSTITUTION.—The term ‘community de-
13 velopment financial institution’ has the meaning
14 given that term under section 103 of the Riegle
15 Community Development and Regulatory Im-
16 provement Act of 1994 (12 U.S.C. 4702).

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

19 “(i) designated by—

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

23 “(II) a State or local qualified al-
24 location plan as a high opportunity
25 area; and

1 “(ii) with a poverty rate below—

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

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

7 “(C) NATIVE LAND AREA.—The term ‘Na-
8 tive Land Area’ means—

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

14 “(ii) all dependent Indian commu-
15 nities within the borders of the United
16 States whether within the original or sub-
17 sequently acquired territory thereof, and
18 whether within or without the limits of a
19 State, as described in section 1151(b) of
20 title 18, United States Code;

21 “(iii) all Indian allotments, the Indian
22 titles to which have not been extinguished,
23 including rights-of-way running through
24 the same, as defined in section 1151(c) of
25 title 18, United States Code;

1 “(iv) any land held in trust by the
2 United States for Native Americans, as de-
3 scribed in section 3765(1)(A) of title 38,
4 United States Code;

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

8 “(vi) any Alaska Native village as de-
9 fined in section 3 of the Alaska Native
10 Claims Settlement Act (43 U.S.C. 1602);

11 “(vii) lands that have the status of
12 Hawaiian Home Lands as defined in sec-
13 tion 204 of the Hawaiian Homes Commis-
14 sion Act, 1920 (42 Stat. 108);

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

20 “(ix) land areas of State-recognized
21 Indian tribes and heritage groups that are
22 defined and recognized by individual States
23 and included in the annual Boundary and
24 Annexation Survey of the Bureau of the
25 Census.

1 “(D) PERSISTENT POVERTY COUNTY.—
2 Term ‘persistent poverty county’ means a coun-
3 ty that has had poverty rates of 20 percent or
4 more for the past 30 years, as measured by the
5 most recent decennial censuses.”.

6 (b) EFFECTIVE DATE.—Section 804(e) of the Com-
7 munity Reinvestment Act of 1977, as added by subsection
8 (a), shall take effect after the end of the 90-day period
9 beginning on the date of enactment of this Act.

10 **SEC. 4. TREATMENT OF ILLEGAL AND DISCRIMINATORY**
11 **ACTIVITY.**

12 Section 804 of the Community Reinvestment Act of
13 1977 (12 U.S.C. 2903), as amended by section 3, is fur-
14 ther amended by adding at the end the following:

15 “(f) TREATMENT OF ILLEGAL OR DISCRIMINATORY
16 ACTIVITY.—

17 “(1) IN GENERAL.—In assessing and taking
18 into account, under subsection (a), the record of a
19 financial institution, the appropriate Federal finan-
20 cial supervisory agency shall give negative credit for
21 any activity of the financial institution, or a sub-
22 sidiary of the financial institution, that includes evi-
23 dence of an illegal or discriminatory practice, includ-
24 ing—

1 “(A) activity that harms, including by dis-
2 placing, residents of low- and moderate-income
3 neighborhoods; and

4 “(B) any violation of Federal law, regard-
5 less of whether the violation is credit-related or
6 not, including any violation of section 987(b) of
7 title 10, United States Code (commonly re-
8 ferred to as the ‘Military Lending Act’), the
9 Servicemembers Civil Relief Act, or prohibitions
10 against unfair, deceptive, or abusive acts or
11 practices.

12 “(2) CONSIDERATIONS.—In determining the
13 treatment of any illegal or discriminatory activity de-
14 scribed under paragraph (1), the appropriate Fed-
15 eral financial supervisory agency shall consider—

16 “(A) the root cause of the activity;

17 “(B) the severity of the harm to individ-
18 uals and communities as a result of the activity;

19 “(C) the duration of time of the activity;

20 and

21 “(D) the pervasiveness of the activity.

22 “(3) TREATMENT ON TESTS AND OVERALL AS-
23 SESSMENT.—If, in performing an assessment of a fi-
24 nancial institution under subsection (a), the appro-
25 priate Federal financial supervisory agency uses sep-

1 arate tests or other evaluations as part of the cal-
2 culation of the overall assessment, the agency shall
3 give negative credit on both the overall assessment
4 and any applicable test or evaluation.”.

5 **SEC. 5. COMMUNITY ADVISORY COMMITTEES.**

6 Section 804 of the Community Reinvestment Act of
7 1977 (12 U.S.C. 2903), as amended by section 4, is fur-
8 ther amended by adding at the end the following:

9 “(g) COMMUNITY ADVISORY COMMITTEES.—

10 “(1) IN GENERAL.—Each financial institution
11 shall form a separate Community Advisory Com-
12 mittee (which shall be composed of a diverse set of
13 consumer, housing, community development, and
14 other stakeholder groups representing the applicable
15 metropolitan statistical area) in each of the fol-
16 lowing:

17 “(A) With respect to a financial institution
18 with consolidated assets equal to or greater
19 than \$2,000,000,000, each metropolitan statis-
20 tical area where the financial institution or any
21 subsidiaries of the financial institution have a
22 branch or other facility (including an automated
23 teller machine) and each metropolitan statistical
24 area where the financial institution has a sub-

1 stantial number of customers who maintain de-
2 posit accounts with the financial institution.

3 “(B) With respect to a financial institution
4 with consolidated assets of less than
5 \$2,000,000,000, each metropolitan statistical
6 area within the counties or States where the fi-
7 nancial institution and any subsidiaries of the
8 financial institution are located.

9 “(2) QUARTERLY CONSULTATION.—The execu-
10 tives of a financial institution shall meet with all the
11 financial institution’s Community Advisory Commit-
12 tees on a quarterly basis—

13 “(A) to discuss the financial institution’s
14 current work to meet the credit and deposit
15 needs of low- and moderate-income individuals
16 and underserved communities, persons with dis-
17 abilities, LGBTQ+ communities, and Asian,
18 Hispanic or Latino, Black or African American,
19 American Indian and Alaska Native, Native
20 Hawaiian and Other Pacific Islander commu-
21 nities, as applicable to the financial institution’s
22 geographic areas;

23 “(B) with respect to a financial institution
24 with consolidated assets equal to or greater
25 than \$2,000,000,000, to assist the executives in

1 developing and updating a plan for how the in-
2 stitution will work to meet the credit needs of
3 the institution's entire community, including
4 low- and moderate-income neighborhoods; and

5 “(C) to discuss the institution's data
6 (which shall be disaggregated by Asian, His-
7 panic or Latino, Black or African American,
8 American Indian and Alaska Native, and Native
9 Hawaiian and Other Pacific Islander commu-
10 nities, as applicable to the financial institution's
11 geographic areas) on—

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

14 “(ii) retail products and services;

15 “(iii) community development services;

16 and

17 “(iv) community development financ-
18 ing.

19 “(3) SPECIFIC CONSULTATIONS.—In addition to
20 the quarterly consultations required under para-
21 graph (2), the executives of a financial institution
22 with consolidated assets of more than
23 \$2,000,000,000 shall meet with the Community Ad-
24 visory Committee before—

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

3 “(B) the financial institution, or any sub-
4 sidiary of the financial institution, applies for
5 deposit insurance;

6 “(C) the financial institution applies to
7 open a new branch or to relocate an existing
8 branch; or

9 “(D) the financial institution provides no-
10 tice that it would close of a branch or other fa-
11 cility.”.

12 **SEC. 6. CONSIDERATION OF SMALL HOME MORTGAGE**
13 **LENDING.**

14 Section 804 of the Community Reinvestment Act of
15 1977 (12 U.S.C. 2903), as amended by section 5, is fur-
16 ther amended by adding at the end the following:

17 “(h) CONSIDERATION OF SMALL HOME MORTGAGE
18 LENDING.—

19 “(1) IN GENERAL.—As part of assessing a fi-
20 nancial institution under subsection (a), the appro-
21 priate Federal financial supervisory agency shall
22 evaluate the financial institution’s performance in
23 facilitating home mortgage lending targeted to low-
24 and moderate-income borrowers in a safe and sound
25 manner, including—

1 “(A) small-dollar, first-lien mortgages of
2 \$100,000 or less in value that facilitate a home
3 purchase or help a borrower to refinance an ex-
4 isting mortgage; and

5 “(B) mortgages of any size originated in
6 cooperation with a minority depository institu-
7 tion, women’s depository institution, low-income
8 credit union, or a community development fi-
9 nancial institution certified by the Secretary of
10 the Treasury (as defined under section 103 of
11 the Riegle Community Development and Regu-
12 latory Improvement Act of 1994).

13 “(2) DATA COLLECTION AND REPORTING BY
14 LARGE FINANCIAL INSTITUTIONS.—

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

19 “(i) mortgage loan data needed to cal-
20 culate retail lending volume and distribu-
21 tion metrics;

22 “(ii) information related to demo-
23 graphics of borrowers, including the in-
24 come, gender identity, sexual orientation,
25 race, and ethnicity of mortgage applicants;

1 “(iii) the number of mortgage loans
2 originated with a value of \$100,000 or
3 less, as well as the demographics of bor-
4 rowers, including income, gender, race, and
5 ethnicity; and

6 “(iv) if the financial institution has a
7 special purpose credit program that fo-
8 cuses on borrowers from Asian, Hispanic,
9 Black or African American, American In-
10 dian and Alaska Native, Native Hawaiian
11 and Other Pacific Islander communities,
12 all mortgage loans originated by the finan-
13 cial institution under such program that
14 are made for the purpose of a home pur-
15 chase or to refinance a mortgage loan
16 made for the purpose of a home purchase.

17 “(B) TEMPLATE.—The appropriate Fed-
18 eral financial supervisory agencies shall, jointly,
19 issue rules to establish a template that large fi-
20 nancial institutions shall use to collect informa-
21 tion required to be collected under this para-
22 graph.

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

1 “(A) IN GENERAL.—As part of assessing a
2 small or intermediate financial institution under
3 subsection (a), the appropriate Federal finan-
4 cial supervisory agency shall, at the request of
5 the financial institution, provide additional con-
6 sideration of any mortgages extended by the fi-
7 nancial institution that are small-dollar mort-
8 gages of \$100,000 or less in value that facili-
9 tate a home purchase or help a borrower to re-
10 finance an existing mortgage.

11 “(B) RATING ADJUSTMENT.—If the appro-
12 priate Federal financial supervisory agency
13 planned to assign a rating under section
14 807(b)(2) to a small or intermediate financial
15 institution of ‘Satisfactory record of meeting
16 community credit needs’, the appropriate Fed-
17 eral financial supervisory agency may, after the
18 additional consideration described under sub-
19 paragraph (A), change such rating to ‘Out-
20 standing record of meeting community credit
21 needs’, if the appropriate Federal financial su-
22 pervisory agency determines such change is ap-
23 propriate.

24 “(4) DEFINITIONS.—The Board of Governors
25 of the Federal Reserve System, the Comptroller of

1 the Currency, and the Federal Deposit Insurance
2 Corporation shall, jointly, define the terms ‘large fi-
3 nancial institution’ and ‘small or intermediate finan-
4 cial institution’ for purposes of this subsection.”.

5 **SEC. 7. STUDY ON DISCRIMINATION AND DISPARITIES IN**
6 **ACCESS TO CREDIT.**

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

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

12 “(a) STUDY.—Not later than the end of the 2-year
13 period beginning on the date of enactment of this section,
14 and every 2 years thereafter, the appropriate Federal fi-
15 nancial supervisory agencies shall, jointly, and in consulta-
16 tion with such other Federal or State agencies as the ap-
17 propriate Federal financial supervisory agencies determine
18 appropriate, complete an interagency statistical study to
19 identify metropolitan areas and rural counties that either
20 experience ongoing discrimination or exhibit significant ra-
21 cial disparities in access to credit for any racial or ethnic
22 group.

23 “(b) USE OF DATA.—In carrying out each study re-
24 quired under subsection (a), the appropriate Federal fi-
25 nancial supervisory agencies shall make use of—

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

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

5 “(3) available State data; and

6 “(4) information contained in public litigation
7 against regulated financial institutions for redlining
8 or lending discrimination (including litigation initi-
9 ated by the Bureau of Consumer Financial Protec-
10 tion, the Department of Housing and Urban Affairs,
11 the Department of Justice, or by private parties).

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

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

20 “(2) policy recommendations to remedy the dis-
21 crimination and disparities identified in the study.”.