

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____**

OFFERED BY MR. LYNCH OF MASSACHUSETTS

[relating to the Clarity in Credit Score Formation Act of 2019]

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Clarity in Credit Score
3 Formation Act of 2019”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) The February 2015 report of the Bureau of
7 Consumer Financial Protection titled “Consumer
8 Voices on Credit Reports and Scores” found that
9 some consumers are reluctant to comparison shop
10 for loans and other types of consumer credit prod-
11 ucts out of fear that they will lower their credit
12 scores by doing so.

13 (2) The Bureau of Consumer Financial Protec-
14 tion found that one of the most common barriers for
15 people in reviewing their own credit reports and
16 shopping for the best credit terms was a lack of un-
17 derstanding of the differences between “soft” and

1 “hard” inquiries and whether requesting a copy of
2 their own report would adversely impact their credit
3 standing.

4 (3) The Bureau of Consumer Financial Protec-
5 tion revealed that consumers with accurate percep-
6 tions of their creditworthiness may be better
7 equipped to shop for favorable credit terms.

8 **SEC. 3. CONSUMER BUREAU OVERSIGHT OF CREDIT SCOR-**
9 **ING MODELS.**

10 The Fair Credit Reporting Act (15 U.S.C. 1681 et
11 seq.) is amended—

12 (1) by adding at the end the following new sec-
13 tion:

14 **“§ 630. Credit scoring models**

15 “(a) VALIDATED CREDIT SCORING MODELS.—Not
16 later than 1 year after the date of the enactment of this
17 section, the Bureau shall (in consultation with the Board
18 of Governors of the Federal Reserve System, the Comp-
19 troller of the Currency, the Board of Directors of the Fed-
20 eral Deposit Insurance Corporation, and the National
21 Credit Union Administration Board) issue final regula-
22 tions applicable to any person that creates, maintains, uti-
23 lizes, or purchases credit scoring models used in making
24 credit decisions to establish standards for validating the
25 accuracy and predictive value of all such credit scoring

1 models, both before release for initial use and at regular
2 intervals thereafter, for as long as such credit scoring
3 models are made available for purchase or use by such
4 person.

5 “(b) PROHIBITION.—At least once every 2 years, the
6 Bureau shall conduct a review of credit scoring models to
7 determine whether the use of any particular factors, or
8 the weight or consideration given to certain factors by
9 credit scoring models, is inappropriate, including if such
10 factors do not enhance or contribute to the accuracy and
11 predictive value of the models. Upon the conclusion of its
12 review, the Bureau may prohibit a person described in
13 subsection (a) from weighing, considering, or including
14 certain factors in, or making available for purchase or use,
15 certain credit scoring models or versions, as the Bureau
16 determines appropriate.”; and

17 (2) in the table of contents for such Act, by
18 adding at the end the following new item:

“630. Credit scoring models.”.

19 **SEC. 4. CONSUMER BUREAU STUDY AND REPORT TO CON-**
20 **GRESS ON THE IMPACT OF NON-TRADI-**
21 **TIONAL DATA.**

22 (a) STUDY.—The Bureau of Consumer Financial
23 Protection shall carry out a study to assess the impact
24 (including the availability and affordability of credit and
25 other noncredit decisions, the potential positive and nega-

1 tive impacts on consumer credit scores, and any unin-
2 tended consequences) of using traditional modeling tech-
3 niques or alternative modeling techniques to analyze non-
4 traditional data from a consumer report and of including
5 non-traditional data on consumer reports on the following:

6 (1) Consumers with no or minimal traditional
7 credit history.

8 (2) Traditionally underserved communities and
9 populations.

10 (3) Consumers residing in rural areas.

11 (4) Consumers residing in urban areas.

12 (5) Racial and ethnic minorities and women.

13 (6) Consumers across various income strata,
14 particularly consumers earning less than 120 per-
15 cent of the area median income (as defined by the
16 Secretary of Housing and Urban Development).

17 (7) Immigrants, refugees, and non-permanent
18 residents.

19 (8) Minority financial institutions (as defined
20 under section 308(b) of the Financial Institutions
21 Reform, Recovery, and Enforcement Act of 1989
22 (12 U.S.C. 1463 note)) and community financial in-
23 stitutions.

1 (9) Consumers residing in federally assisted
2 housing, including consumers receiving Federal rent-
3 al subsidies.

4 (b) **ADDITIONAL CONSIDERATIONS.**—In assessing
5 impacts under subsection (a), the Bureau of Consumer Fi-
6 nancial Protection shall also consider impacts on—

7 (1) the privacy, security, and confidentiality of
8 the financial, medical, and personally identifiable in-
9 formation of consumers;

10 (2) the control of consumers over how such in-
11 formation may or will be used or considered;

12 (3) the understanding of consumers of how
13 such information may be used or considered and the
14 ease with which a consumer may decide to restrict
15 or prohibit such use or consideration of such infor-
16 mation;

17 (4) potential discriminatory effects; and

18 (5) disparate outcomes the use or consideration
19 of such information may cause.

20 (c) **CONSIDERATION OF RECENT GOVERNMENT**
21 **STUDIES.**—In assessing impacts under subsection (a), the
22 Bureau of Consumer Financial Protection shall also con-
23 sider recent Government studies on alternative data, in-
24 cluding—

1 (1) the report of the Bureau of Consumer Fi-
2 nancial Protection titled “CFPB Data Point: Be-
3 coming Credit Visible” (published June 2017); and

4 (2) the report of the Comptroller General of the
5 United States titled “Financial Technology: Agen-
6 cies Should Provide Clarification on Lenders’ Use of
7 Alternative Data” (published December 2018).

8 (d) REPORT.—Not later than 1 year after the date
9 of the enactment of this Act, the Bureau of Consumer Fi-
10 nancial Protection shall issue a report to the Committee
11 on Financial Services of the House of Representatives and
12 the Committee on Banking, Housing, and Urban Affairs
13 of the Senate containing all findings and determinations,
14 including any recommendations for any legislative or regu-
15 latory changes, made in carrying out the study required
16 under subsection (a).

17 (e) DEFINITIONS.—In this section:

18 (1) ALTERNATIVE MODELING TECHNIQUES.—
19 The term “alternative modeling techniques” means
20 statistical and mathematical techniques that are not
21 traditional modeling techniques, including decision
22 trees, random forests, artificial neural networks,
23 nearest neighbor, genetic programming, and boost-
24 ing algorithms.

1 (2) CONSUMER REPORT.—The term “consumer
2 report” has the meaning given such term in section
3 603 of the Fair Credit Reporting Act (15 U.S.C.
4 1681a).

5 (3) NON-TRADITIONAL DATA.—The term “non-
6 traditional data” means data related to tele-
7 communications, utility payments, rent payments,
8 remittances, wire transfers, data not otherwise regu-
9 larly included in consumer reports issued by con-
10 sumer reporting agencies described under section
11 603(p), and such other items as the Bureau of Con-
12 sumer Financial Protection deems appropriate.

13 (4) TRADITIONAL MODELING TECHNIQUES.—
14 The term “traditional modeling techniques” means
15 statistical and mathematical techniques (including
16 models, algorithms, linear and logistic regression
17 methods, and their outputs) that are traditionally
18 used in automated underwriting processes.

