Congressional Budget Office
Cost Estimate

February 22, 2022

At a Glance

H.R. 166, Fair Lending for All Act

As ordered reported by the House Committee on Financial Services on May 12, 2021

By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
Direct Spending (Outlays)	4	14	28
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	4	14	28
Spending Subject to Appropriation (Outlays)	*	4	not estimated

Statutory pay-as-you-go procedures apply?	Yes	**Mandate Effects**	
		Contains intergovernmental mandate?	No
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< $5 billion	Contains private-sector mandate?	Yes, Under Threshold

* = between -$500,000 and $500,000.

The bill would

- Establish the Office of Fair Lending Testing within the Consumer Financial Protection Bureau (CFPB) to assess creditor compliance with the Equal Credit Opportunity Act (ECOA)
- Require the CFPB to issue rules to expand protections for borrowers in credit transactions
- Establish new criminal penalties for violating the ECOA
- Require depository institutions to report additional information about mortgage loans to the CFPB
- Impose a private-sector mandate by prohibiting discrimination in credit transactions on the basis of an applicant's zip code or census tract

Estimated budgetary effects would mainly stem from

- Increases in direct spending to operate the Office of Fair Lending Testing and to conduct rulemakings
- Increases in spending subject to appropriation for enforcement and interagency consultation by the Departments of Justice and Housing and Urban Development

Detailed estimate begins on the next page.

Bill Summary

H.R. 166 would establish the Office of Fair Lending Testing within the Consumer Financial Protection Bureau (CFPB) to investigate and assess creditors' compliance with the Equal Credit Opportunity Act (ECOA). The bill also would broaden ECOA protections by prohibiting creditors from discriminating on the basis of a borrower's zip code, census tract, or other demographic characteristics. Violations discovered during those investigations would be referred to the Department of Justice (DOJ) for enforcement, and violators would face criminal penalties. The CFPB and DOJ would be required to report annually to the Congress on investigation results and any resulting criminal prosecutions.

Under current law, depository institutions must disclose to the CFPB annually the number and dollar amount of mortgages originated or purchased in the prior fiscal year. H.R. 166 would require those institutions to itemize that mortgage information based on several borrower characteristics, including zip code, religion, and marital status. The bill would require the CFPB to protect the private information of applicants and mortgagors that those institutions disclose.

Estimated Federal Cost

The estimated budgetary effect of H.R. 166 is shown in Table 1. The costs of the legislation fall within budget functions 370 (commerce and housing credit), 600 (income security), and 750 (administration of justice).

Table 1.
Estimated Budgetary Effects of H.R. 166

	By Fiscal Year, Millions of Dollars											
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-2026	2022-2031
Increases in Direct Spending												
Estimated Budget Authority	4	4	2	2	2	2	3	3	3	3	14	28
Estimated Outlays	4	4	2	2	2	2	3	3	3	3	14	28
Decreases in Revenues												
Estimated Revenues	*	*	*	*	*	*	*	*	*	*	*	*
Net Increase in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit	4	4	2	2	2	2	3	3	3	3	14	28
Increases in Spending Subject to Appropriation												
Estimated Authorization	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	4	n.e.
Estimated Outlays	*	1	1	1	1	n.e.	n.e.	n.e.	n.e.	n.e.	4	n.e.

n.e. = not estimated; * = between -$500,000 and $500,000.

Basis of Estimate

For this estimate, CBO assumes that H.R. 166 will be enacted in 2022 and that spending will follow historical patterns for similar programs.

Direct Spending

CBO estimates that enacting H.R. 166 would increase net direct spending by $28 million over the 2022-2031 period.

Consumer Financial Protection Bureau. Using information from the CFPB, CBO estimates that the bureau would spend $28 million over the 2022-2031 period to fulfill the bill's requirements. That amount would support about 36 additional employees at a cost of $230,000 each over varying time periods. The bureau has permanent authority, not subject to annual appropriation, to spend amounts transferred from the Federal Reserve.

Specifically, CBO estimates that the CFPB would spend $25 million over the 2022-2031 period for staff and contractors to establish and operate the Office of Fair Lending Testing, to complete rulemakings, and to fulfill additional reporting requirements. The bureau would spend $2 million over the same period to contract with external testers to investigate discrimination by creditors, and roughly $500,000 to upgrade its information technology systems to process additional data from depository institutions.

Federal Financial Institutions Examination Council. CBO expects that depository institutions would make greater use of a geocoding system that the Federal Financial Institutions Examination Council (FFIEC) provides to help them meet reporting requirements. CBO estimates that the FFIEC would spend an additional $100,000 each year, reflecting an increase in system use under H.R. 166. That amount would be split evenly among the five agencies that fund it: the CFPB, Federal Deposit Insurance Corporation (FDIC), Federal Reserve, National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC). The operating costs of the CFPB, FDIC, NCUA, and OCC are classified as direct spending. The NCUA and OCC collect fees from financial institutions to offset their operating costs; those fees are treated as reductions in direct spending. On net, CBO estimates that increased use of the FFIEC geocoding system would increase direct spending by an insignificant amount over the 2022-2031 period.

Revenues

Costs incurred by the Federal Reserve reduce remittances to the Treasury, which are recorded in the budget as revenues. CBO estimates that upgrades to the FFIEC's geocoding system would increase costs to the Federal Reserve by less than $500,000 and thus decrease revenues by the same amount over the 2022-2031 period.

Because H.R. 166 would establish new criminal penalties for violating the ECOA, the federal government could collect additional fines under the bill. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation. CBO expects that any additional revenues and associated direct spending would not be significant because relatively few additional cases would be pursued.

Spending Subject to Appropriation
Using information from DOJ, CBO estimates that it would cost the department roughly $3 million over the 2022-2026 period for three attorneys to handle the expanded ECOA caseload under H.R. 166. In addition, CBO estimates that it would cost the Department of Housing and Urban Development about $1 million over the 2022-2026 period to consult with the CFPB's new Office of Fair Lending Testing. In total, CBO estimates, implementing H.R. 166 would cost about $4 million over the 2022-2026; such spending would be subject to the availability of appropriated funds.

Pay-As-You-Go Considerations

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown above in Table 1.

Increase in Long-Term Deficits

CBO estimates that enacting H.R. 166 would not increase on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2032.

Mandates

H.R. 166 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting discrimination in credit transactions on the basis of an applicant's zip code or census tract. CBO estimates that the cost of complying with the mandate would fall below the threshold established in UMRA for private-sector mandates ($170 million in 2021, adjusted annually for inflation).

CBO has not reviewed a portion of section 3(a) for intergovernmental and private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that would establish or enforce statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability. CBO has determined that a portion of section 3(a) falls within that exclusion because it would prohibit discrimination in credit transactions on the basis of sexual orientation or gender identity.

H.R. 166 contains no intergovernmental mandates as defined in UMRA.

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