

CLARITY IN CREDIT SCORE FORMATION ACT OF 2019

NOVEMBER 21, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3629]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3629) to amend the Fair Credit Reporting Act to establish clear Federal oversight of the development of credit scoring models by the Bureau of Consumer Financial Protection, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) The Bureau of Consumer Financial Protection found that one of the most common barriers for people in reviewing their own credit reports and shopping for the best credit terms was a lack of understanding of the differences between “soft” and “hard” inquiries and whether requesting a copy of their own report would adversely impact their credit standing.

(3) The Bureau of Consumer Financial Protection revealed that consumers with accurate perceptions of their creditworthiness may be better equipped to shop for favorable credit terms.

SEC. 3. CONSUMER BUREAU OVERSIGHT OF CREDIT SCORING MODELS.

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

(1) by adding at the end the following new section:

“§ 630. Credit scoring models

“(a) **VALIDATED CREDIT SCORING MODELS.**—Not later than 1 year after the date of the enactment of this section, the Bureau shall (in consultation with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board) issue final regulations applicable to any person that creates, maintains, utilizes, or purchases credit scoring models used in making credit decisions to establish standards for validating the accuracy and predictive value of all such credit scoring models, both before release for initial use and at regular intervals thereafter, for as long as such credit scoring models are made available for purchase or use by such person.

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

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

“630. Credit scoring models.”.

SEC. 4. CONSUMER BUREAU STUDY AND REPORT TO CONGRESS ON THE IMPACT OF NON-TRADITIONAL DATA.

(a) **STUDY.**—The Bureau of Consumer Financial Protection shall carry out a study to assess the impact (including the availability and affordability of credit and other noncredit decisions, the potential positive and negative impacts on consumer credit scores, and any unintended consequences) of using traditional modeling techniques or alternative modeling techniques to analyze non-traditional data from a consumer report and of including non-traditional data on consumer reports on the following:

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

(2) Traditionally underserved communities and populations.

(3) Consumers residing in rural areas.

(4) Consumers residing in urban areas.

(5) Racial and ethnic minorities and women.

(6) Consumers across various income strata, particularly consumers earning less than 120 percent of the area median income (as defined by the Secretary of Housing and Urban Development).

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

(8) Minority financial institutions (as defined under section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note)) and community financial institutions.

(9) Consumers residing in federally assisted housing, including consumers receiving Federal rental subsidies.

(b) ADDITIONAL CONSIDERATIONS.—In assessing impacts under subsection (a), the Bureau of Consumer Financial Protection shall also consider impacts on—

- (1) the privacy, security, and confidentiality of the financial, medical, and personally identifiable information of consumers;
- (2) the control of consumers over how such information may or will be used or considered;
- (3) the understanding of consumers of how such information may be used or considered and the ease with which a consumer may decide to restrict or prohibit such use or consideration of such information;
- (4) potential discriminatory effects; and
- (5) disparate outcomes the use or consideration of such information may cause.

(c) CONSIDERATION OF RECENT GOVERNMENT STUDIES.—In assessing impacts under subsection (a), the Bureau of Consumer Financial Protection shall also consider recent Government studies on alternative data, including—

- (1) the report of the Bureau of Consumer Financial Protection titled “CFPB Data Point: Becoming Credit Visible” (published June 2017); and
- (2) the report of the Comptroller General of the United States titled “Financial Technology: Agencies Should Provide Clarification on Lenders’ Use of Alternative Data” (published December 2018).

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Bureau of Consumer Financial Protection shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations, including any recommendations for any legislative or regulatory changes, made in carrying out the study required under subsection (a).

(e) DEFINITIONS.—In this section:

- (1) ALTERNATIVE MODELING TECHNIQUES.—The term “alternative modeling techniques” means statistical and mathematical techniques that are not traditional modeling techniques, including decision trees, random forests, artificial neural networks, nearest neighbor, genetic programming, and boosting algorithms.
- (2) CONSUMER REPORT.—The term “consumer report” has the meaning given such term in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).
- (3) NON-TRADITIONAL DATA.—The term “non-traditional data” means data related to telecommunications, utility payments, rent payments, remittances, wire transfers, data not otherwise regularly included in consumer reports issued by consumer reporting agencies described under section 603(p), and such other items as the Bureau of Consumer Financial Protection deems appropriate.
- (4) TRADITIONAL MODELING TECHNIQUES.—The term “traditional modeling techniques” means statistical and mathematical techniques (including models, algorithms, linear and logistic regression methods, and their outputs) that are traditionally used in automated underwriting processes.

PURPOSE AND SUMMARY

On July 9, 2019, Representative Stephen Lynch introduced H.R. 3629, the “Clarity in Credit Score Formation Act of 2019,” which establishes clear Federal oversight of the development of credit scoring models by directing the Consumer Financial Protection Bureau (CFPB) to set standards for validating the accuracy and predictive value of credit scoring models, both before their initial use by creditors and at regular intervals thereafter, for as long as those models are available for purchase. The bill gives the CFPB explicit authority to prohibit credit scoring developers from weighing, considering, or including certain factors or making available for purchase or using certain outdated credit scoring models or versions that may create misleading and false determinations of consumers’ creditworthiness.

The bill would also require the CFPB to study the impact of having more non-traditional data on consumer reports and the use of alternative data in credit scoring models on consumers’ access to, and the affordability of, credit products and services and other matters, including a review of the impact on consumers with limited

or no traditional credit histories, racial and ethnic minorities, women, and consumers residing in Federally-assisted rental housing.

BACKGROUND AND NEED FOR LEGISLATION

Our nation's credit reporting system is broken yet has an impact on almost every American. Credit scores and credit reports are increasingly relied upon by creditors, employers, insurers, and even law enforcement. Yet it has been more than 15 years since Congress enacted comprehensive reform of the consumer reporting system,¹ and there have been numerous shortcomings with the current system identified during that time that need to be addressed. For example, the Federal Trade Commission (FTC) study found in 2012 that one out of every five consumers have a verified error on their consumer reports and 5 percent had errors serious enough to result in them being denied credit or paying more for mortgages, auto loans, insurance policies, and other financial obligations.² An analysis of the CFPB consumer complaint database revealed that in 2018, credit reports were the most complained about financial product, and the three major credit bureaus—Equifax, Experian and TransUnion—were the most-complained about financial companies.³ It is critical that Congress act swiftly to address these critical flaws and modernize the Fair Credit Reporting Act to ensure the credit reporting system works better for all Americans.

Although Federal prudential regulators review the performance of the use of credit scoring models by lenders as part of safety and soundness reviews, and the CFPB has some general supervision of credit score developers through its larger participant rule,⁴ there is no clearly defined supervisory framework that focuses on the development or initial and ongoing validation of credit scoring models. The Government Accountability Office recently urged regulators to clarify for lenders the appropriate use of alternative data in the underwriting process.⁵

Consumers with minimal or no traditional credit history may have difficulty accessing affordable credit or be unable to secure rental housing because they do not have sufficient credit information to generate a score. This has an impact especially on communities of color and creditworthy low-income households that could with the appropriate underwriting, safely participate in the prime lending market.⁶

¹The Fair and Accurate Credit Transactions Act of 2003 (FACT Act; P.L. 108–159), among other things, allows consumers to request and obtain a free credit report once a year from each of the three nationwide consumer reporting agencies.

²<https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>.

³<https://uspirg.org/news/usp/youre-not-alone-cfpb-complaints-rise>.

⁴<https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/defining-larger-participants-consumer-reporting-market/>.

⁵Government Accountability Office, *Financial Technology: Agencies Should Provide Clarification on Lenders' Use of Alternative Data* (2018), available at <https://www.gao.gov/assets/700/696149.pdf>.

⁶Consumer Financial Protection Bureau, *Data Point: Credit Invisibles* (2015), available at https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf.

This legislation is supported by more than 80 consumer, civil rights, labor, and community organizations.⁷ The National Association of Realtors also support this legislation.⁸

Some stakeholders point to the benefits of using alternative payment data, such as utility, rental and telecommunications payment histories, to improve creditors' ability to differentiate between high- and low-risk profiles of consumers with no or thin credit files, which, presumably, would also expand access to credit for "credit invisibles."⁹ Other stakeholders, however, have warned that the consideration of certain non-traditional data, such as utility, rental, and telecommunications data, to evaluate consumers' creditworthiness may cause more harm than good for some consumers. These stakeholders recommend evaluating the unique benefits and disadvantages of increasing the reporting of alternative data to the nationwide CRAs and as factors in scoring models.¹⁰

This bill is substantially similar to Title V of the discussion draft of the "Comprehensive Consumer Credit Reporting Reform Act of 2019" considered at a full committee hearing on February 26, 2019 and was introduced in previous congresses.¹¹

⁷Supporting organizations include Americans for Financial Reform, A2Z Real Estate Consultants, African American Health Alliance, Alaska Public Interest Research Group, Allied Progress, Arkansas Community Organizations, BREAD Organization, CAFE Montgomery MD, Center for Digital Democracy, Cleveland Jobs with Justice, Community Action Human Resources Agency (CAHRA), Congregation of Our Lady of the Good Shepherd, US Provinces, Connecticut, Fair Housing Center, Consumer Action, Consumer Federation of America, Consumer Federation of California, Consumer Reports, CWA Local 1081, Delaware Community Reinvestment Action Council, Inc., Demos, Denver Area Labor Federation, East Bay Community Law Center, FAITH IN TEXAS, Famicos Foundation, FLARA, Florida Alliance for Consumer Protection, Greater Longview United Way, Groundcover News, Habitat for Humanity of Camp Co, TX, Hawaiian Community Assets, Housing Action Illinois, Housing and Family Services of Greater New York, Inc., Mary House, Inc., Maryland Consumer Rights Coalition, Miami Valley Fair Housing Center, Inc., Mobilization for Justice Inc., Montana Organizing Project, Multi-Cultural Real Estate Alliance For Urban Change, National Advocacy Center of the Sisters of the Good Shepherd, National Association of Consumer Advocates, National Association of Social Workers, National Association of Social Workers West Virginia Chapter, National Center for Law and Economic Justice, National Consumer Law Center (on behalf of its low-income clients), National Fair Housing Alliance, National Housing Law Project, National Housing Resource Center, National Rural Social Work Caucus, New Economics for Women, New Jersey Citizen Action, New Jersey Tenants Organization, New York Legal Assistance Group, North Carolina Council of Churches, Partners In Community Building, Inc., PathWays PA, Pennsylvania Council of Churches, People Demanding Action, Progressive Leadership Alliance of Nevada, Project IRENE, Prosperity Now, Public Citizen, Public Justice Center, Public Law Center, Public Utility Law Project of New York, Rocky Mountain Peace and Justice Center, SC Appleseed Legal Justice Center, Sisters of Mercy South Central Community, Society of St. Vincent de Paul, St. Paul UMC, Tennessee Citizen Action, The Center for Survivor Agency and Justice, The Disaster Law Project, The Greenlining Institute, The Leadership Conference on Civil and Human Rights, THE ONE LESS FOUNDATION, Tzedek DC, U.S. PIRG, Urban Asset Builders, Inc., Virginia Citizens Consumer Council, Virginia Poverty Law Center, West Virginia Center on Budget and Policy, Wildfire, Woodstock Institute, and WV Citizen Action Group. See <http://ourfinancialsecurity.org/2019/07/news-release-afr-statement-financial-services-committee-markup-credit-reporting/>.

⁸National Association of Realtors letter, *available at* <https://narfocus.com/billdatabase/clientfiles/172/2/3417.pdf>.

⁹Michael Turner and Patrick Walker, Predicting Financial Account Delinquencies with Utility and Telecom Payment Data (2015), *available at* <http://www.perc.net/wp-content/uploads/2015/05/Alt-Data-and-Traditional-Accounts.pdf>.

¹⁰Chi Chi Wu, Proceed with Caution on Credit Scoring with Alternative Data (2015), *available at* <https://www.americanbanker.com/opinion/proceed-with-caution-on-credit-scoring-with-alternative-data>.

¹¹Financial Services Committee Hearing: Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System (2019). Hearing information available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402343>. Also see H.R. 5282 (114th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2016, introduced by Rep. Waters on May 19, 2016, and H.R. 3755 (115th Congress), the Comprehensive Consumer Credit Reporting Reform Act of 2017, introduced by Rep. Waters on September 13, 2017, available with additional materials at <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=400788>.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that H.R. 3629 may be cited as the “Clarity in Credit Score Formation Act of 2019.”

Section 2. Findings

This section highlights Consumer Financial Protection Bureau findings that consumers have difficulties in understanding how credit scores are made and formed, and also have difficulty understanding how to improve their credit reports and scores. Consumers need more clear and accurate understandings of their scores, and how they can improve them and seek better credit opportunities.

Section 3. Consumer Bureau oversight of credit scoring models

This section adds a new section, 630 to the Fair Credit Reporting Act.

The new section 630 directs the Consumer Financial Protection Bureau to issue final regulations and standards to validate the accuracy and predictive value of credit scoring models no later than 1 year after the enactment of this section. This section also encourages the Consumer Financial Protection Bureau to conduct a review of such credit scoring models at least once every two years to determine if the factors used are effective and grants the Bureau authority to prohibit a person or agency from weighing, considering, or including certain factors in their credit scoring models.

Section 4. CFPB Consumer Bureau study and report to congress on the impact of non-traditional data

This section requires the Consumer Financial Protection Bureau to study and assess the impact of nontraditional data on the availability and affordability of credit, consumer credit scores, and any unintended consequences. This section also requires the Bureau to provide a report highlighting findings of such study and provide recommendations for any legislative or regulatory changes.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress—

(1) The Committee on Financial Services held a hearing, entitled “Who’s Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System” to consider the “Comprehensive Consumer Credit Reporting Reform Act of 2019” (Title V of the discussion draft is substantially similar to H.R. 3629) on February 26, 2019. The two-panel hearing consisted of first the three CEOs of the three largest Credit Reporting Agencies: Equifax, TransUnion, and Experian. Witnesses on the second panel included representatives from the National Fair Housing Alliance, the National Consumer Law Center, UnidosUS, U.S. Public Interest Research Group (PIRG), and a Paul Hastings partner and attorney. The hearing allowed Members of the Financial Services Committee to hear from witnesses about the continuing challenges modernizing the Fair Credit Reporting Act to better protect consumers and their data, as well as other legislation to help overcome those challenges.

(2) The Committee on Financial Services' taskforce on Financial Technology held a hearing, entitled "Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit" on July 25, 2019 to discuss emerging technologies and how they impact access to credit, and their impact across communities. The panel consisted of representatives from the National Consumer Law Center, Tulane University Law School, The Government Accountability Office (GAO), Upstart, and Upturn.

(3) In addition, during the 115th Congress, the Financial Services Committee held a two-part hearing on the Equifax data breach and related credit reporting and consumer data protection issues. The first part of the hearing entitled "Examining the Equifax Data Breach" took place on October 5, 2017 and featured the former Chairman and CEO to Equifax. The Committee also held a Minority Day hearing, which was a continuation of the hearing entitled, "Examining the Equifax Data Breach" and took place on October 25, 2017. Witnesses included representatives from the Consumer Financial Protection Bureau, the National Consumer Law Center, Georgetown University Law Center, and the Office of the New York State Attorney General.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 16, 2019, and ordered H.R. 3629 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 32 yeas and 26 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 3629:

Present	Representatives	Ayes	Nays
	Ms. Waters, <i>Chairwoman</i>	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott	X	
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck		
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas	X	
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard	X	
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
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	Mr. McHenry, <i>Ranking Member</i>	X	
	Ms. Wagner	X	
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey		X
	Mr. Luetkemeyer		X
	Mr. Huizenga		X
	Mr. Duffy		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams		
	Mr. Hill		X
	Mr. Emmer		X
	Mr. Zeldin		X
	Mr. Loudermilk		X
	Mr. Mooney		X
	Mr. Davidson		X
	Mr. Budd		X
	Mr. Kustoff		X
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose		X
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman		X
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Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: 7/16/2019

Measure H.R. 3629 (Final Passage)

Amendment No.

Offered by: Mr. Lynch

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	33 Ayes - 25 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 3629 are to increase clarity in credit score formation and explore alternative data as a means to increase access to credit.

NEW BUDGET AUTHORITY AND CBO ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 3629 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 7, 2019.

Hon. MAXINE WATERS,
*Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3629, the Clarity in Credit Score Formation Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is David Hughes.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 3629, Clarity in Credit Score Formation Act of 2019			
As ordered reported by the House Committee on Financial Services on July 16, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	2	5	10
Revenues	0	0	0
Deficit Effect	2	5	10
Spending Subject to Appropriation (Outlays)	0	0	0
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs

Under H.R. 3629, the Consumer Financial Protection Bureau (CFPB) would establish standards for validating the accuracy and predictive value of credit scoring models. The bill would require the CFPB to conduct a biannual review of credit scoring models and would authorize the agency to prohibit the use of certain of those models. H.R. 3629 also would require the CFPB to study and report to the Congress about the effects of using traditional versus alternative modeling techniques to analyze nontraditional consumer report data as defined in the bill. Finally the bill would require the CFPB to assess the effects of including nontraditional data in consumer reports.

Using information from the CFPB, CBO estimates that enacting H.R. 3629 would increase direct spending by \$10 million over the 2020–2029 period. The cost of the legislation, detailed in Table 1, falls within budget function 370 (advancement of commerce).

TABLE 1.—ESTIMATED INCREASES IN DIRECT SPENDING UNDER H.R. 3629

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2020–2024	2020–2029	
Estimated Budget Authority	2	1	0	1	0	2	0	2	0	2	5	10	
Estimated Outlays	2	1	0	1	0	2	0	2	0	2	5	10	

CFPB is permanently authorized to request and receive funding from the Federal Reserve in an amount necessary to carry out its operations and can spend those amounts without further appropriation. CBO estimates that the CFPB would need about a dozen employees in 2020 to complete a final rule on credit scoring models and to carry out the study. CBO expects that biannual reviews would begin in 2021 and would require six employees for each review. CBO estimates that the cost for each additional CFPB employee would be \$200,000 in 2020.

H.R. 3629 would impose private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by:

- Requiring developers of credit scoring models to comply with new standards for validating the accuracy and predictive value of their models, and

- Prohibiting, in some circumstances, developers from considering or including factors that the agency deems inappropriate in a credit scoring model.

Regulations established by the CFPB to implement those provisions would apply to any person creating, maintaining, using, or purchasing credit scoring models.

The mandates' costs would be the expenses incurred to comply with the new CFPB regulations. Because the agency has not yet issued those regulations, CBO cannot determine whether the cost of the mandates would exceed the private-sector threshold established in UMRA (\$164 million in 2019, adjusted annually for inflation).

H.R. 3629 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are David Hughes (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3629. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104-4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 3629, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

H.R. 3629 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3629 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 3629 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 3629, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

FAIR CREDIT REPORTING ACT

TITLE VI—CONSUMER CREDIT REPORTING

Sec.							
601. Short title.	*	*	*	*	*	*	*
630. <i>Credit scoring models.</i>	*	*	*	*	*	*	*

§ 630. *Credit scoring models*

(a) *VALIDATED CREDIT SCORING MODELS.*—Not later than 1 year after the date of the enactment of this section, the Bureau shall (in consultation with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board) issue final regulations applicable to any person that creates, maintains, utilizes, or purchases credit scoring models used in making credit decisions to establish standards for validating the accuracy and predictive value of all such credit scoring models, both before release for initial use and at regular intervals thereafter, for as long as such credit scoring models are made available for purchase or use by such person.

(b) *PROHIBITION.*—At least once every 2 years, the Bureau shall conduct a review of credit scoring models to determine whether the use of any particular factors, or the weight or consideration given to certain factors by credit scoring models, is inappropriate, including if such factors do not enhance or contribute to the accuracy and predictive value of the models. Upon the conclusion of its review, the

Bureau may prohibit a person described in subsection (a) from weighing, considering, or including certain factors in, or making available for purchase or use, certain credit scoring models or versions, as the Bureau determines appropriate.

* * * * *

MINORITY VIEWS

H.R. 3629, the *Clarity in Credit Score Formation Act of 2019*, is an unnecessary expansion of federal authority that will ultimately undermine consumer access to credit by turning underwriting standards over to the federal government. The result will undoubtedly limit access to credit offered by financial institutions. In turn, financial institutions would no longer have access to a comprehensive analysis of a customer's ability to repay.

H.R. 3629 would transfer control of credit scoring model development to the Consumer Financial Protection Bureau (CFPB). Credit scores are proprietary tools developed by private companies that rely on sophisticated algorithms and predictive scoring data. Moreover, the CFPB already possesses the authority to conduct oversight of credit scoring through its 2015 Larger Participant Rule.

Committee Republicans are concerned by the CFPB's authority over the specific factors comprising credit scoring. Despite comments made by the bill's proponents during the July 18, 2019 markup, H.R. 3629 clearly directs the CFPB to "At least once every 2 years . . . conduct a review of credit scoring models to determine whether the use of any particular factors, or the weight of consideration given to certain factors by credit scoring models, is inappropriate, *including* if such factors do not enhance or contribute to the accuracy and predictive value of the models (emphasis added)." The bill further allows the CFPB to prohibit certain factors to be weighed, considered, or included in credit scoring models. Committee Republicans are concerned that such broad authority would not only have the effect of limiting access to credit and pose underwriting risks but could also stifle credit score innovation.

Republicans support the provision that would direct the CFPB to evaluate and conduct a study on the use of non-traditional data. Congressman Barr offered an amendment during the markup that would authorize the study language found in H.R. 3629. The amendment was defeated in Committee on a party line vote of 25–33.

On the whole, Republicans believe this legislation is a solution in search of a problem. Committee Republicans believe this legislation will be detrimental to consumers by limiting information available to the private sector. The result will not be increased access to credit; rather, impaired underwriting will likely result in financial institutions reverting to more conservative lending practices.

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