

119TH CONGRESS
1ST SESSION

S. _____

To amend the Equal Credit Opportunity Act to modify the requirements associated with small business loan data collection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. BRITT (for herself and Mr. BOOZMAN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend the Equal Credit Opportunity Act to modify the requirements associated with small business loan data collection, 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 “Preventing Regulatory
5 Overreach to Empower Communities to Thrive and En-
6 sure Data Privacy Act” or the “PROTECTED Act”.

7 **SEC. 2. SMALL BUSINESS LOAN DATA COLLECTION.**

8 Section 704B of the Equal Credit Opportunity Act
9 (15 U.S.C. 1691c–2) is amended—

1 (1) in subsection (c)—

2 (A) by striking “Any applicant” and in-
3 serting the following:

4 “(1) IN GENERAL.—Any applicant”; and

5 (B) by striking the period at the end and
6 inserting the following:

7 “, and the financial institution may, when requesting
8 such information, inform the applicant in writing
9 that—

10 “(A) the Bureau of Consumer Financial
11 Protection requires the financial institution to
12 ask, collect, and report such information to the
13 Federal Government annually pursuant to this
14 section;

15 “(B) the applicant’s response will not af-
16 fect the financial institution’s evaluation of the
17 request for credit; and

18 “(C) the applicant is not required to pro-
19 vide such information.”; and

20 (2) in subsection (e)—

21 (A) in paragraph (2)—

22 (i) by striking subparagraphs (C),
23 (G), and (H); and

1 (ii) by redesignating subparagraphs
2 (D), (E), and (F) as subparagraphs (C),
3 (D), and (E), respectively;

4 (B) in paragraph (4)—

5 (i) by striking “The” and inserting
6 the following:

7 “(A) IN GENERAL.—The”; and

8 (ii) by adding at the end the fol-
9 lowing:

10 “(B) RULEMAKING.—The Bureau shall,
11 before deleting or modifying data under this
12 paragraph, and after notice and an opportunity
13 for comment, issue rules that include a descrip-
14 tion of what modifications and deletions the
15 Bureau intends to make to the data and how
16 such modifications and deletions will advance a
17 privacy interest.”; and

18 (C) by adding at the end the following:

19 “(5) PROHIBITION ON INFORMATION NOT RE-
20 PORTED BY AN APPLICANT.—A financial institution
21 may not compile and maintain information described
22 under subsection (b) that was determined by the fi-
23 nancial institution using visual observation or any
24 other manner other than being provided by an appli-
25 cant.

“(6) TREATMENT OF RESPONSE RATE.—The percentage of applicants providing a financial institution with the information described under subsection (b) may not be used as a factor in determining whether a financial institution is in compliance with the requirements under this subsection.

7 “(7) SAFE HARBOR.—The Bureau may not en-
8 force compliance with the requirements of this sub-
9 section during the 2-year period beginning on the ef-
10 fective date described in paragraph (8).

“(8) EFFECTIVE DATE.—This subsection shall take effect on the date that is 3 years after the date on which the Bureau completes the cost-benefit analysis under chapter 6 of part I of title 5, United States Code (commonly referred to as the ‘Regulatory Flexibility Act’) and subchapter I of chapter 35 of title 44, United States Code (commonly referred to as the ‘Paperwork Reduction Act’)).

19 “(9) DEFINITIONS.—In this subsection:

20 “(A) FINANCIAL INSTITUTION.—The term
21 ‘financial institution’—

22 “(i) means—

23 “(I) any partnership, company,
24 corporation, association (incorporated
25 or unincorporated), trust, estate, co-

1 operative organization, or other entity
2 that—

3 “(aa) engages in any finan-
4 cial activity; and

5 “(bb) in each of the pre-
6 ceding 2 calendar years, origi-
7 nated not less than 2,500 credit
8 transactions for small businesses;
9 and

10 “(ii) does not include—

11 “(I) any financial institution with
12 less than \$10,000,000,000 in assets;

13 “(II) a Farm Credit System in-
14 stitution chartered under and subject
15 to the provisions of the Farm Credit
16 Act of 1971 (12 U.S.C. 2001 et seq.);

17 “(III) community development fi-
18 nancial institutions, as defined in sec-
19 tion 103 of the Community Develop-
20 ment Banking and Financial Institu-
21 tions Act of 1994 (12 U.S.C. 4702);
22 or

23 “(IV) lenders involved in equip-
24 ment and vehicle financing.

1 “(B) SMALL BUSINESS.—The term ‘small
2 business’ means an entity with gross annual
3 revenues of not more than \$1,000,000 in the
4 preceding fiscal year.’”.