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HOUSE BILL NO. 999
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the House Committee on General Laws
 on _____)

(Patron Prior to Substitute—Delegate J.G. Cole)

A BILL to amend and reenact §§ 6.2-500 and 6.2-506 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 6.2-503.1, relating to equal credit opportunities; use of automated decision systems; review by natural persons.

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-500 and 6.2-506 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 6.2-503.1 as follows:

§ 6.2-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested. The term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

"Applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding the previously established credit limit.

"Artificial intelligence system" means an engineered or machine-based system that, for explicit or implicit objectives, infers from the inputs such system receives how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments, including decisions about an individual's eligibility, benefits, or opportunities.

"Automated decision system" means any computational process, including one derived from artificial intelligence systems or machine learning, that is used by a creditor to (i) evaluate an application for credit, (ii) generate a recommendation or result on such application, or (iii) otherwise take action on such application.

"Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor.

"Creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

§ 6.2-503.1. Use of automated decision systems; review by natural persons.

A. No creditor shall use an automated decision system with respect to an application for credit unless a natural person has reviewed the application and approved the creditor's final action. Such natural person shall be authorized by the creditor to approve, modify, or reject any evaluation, recommendation, result, or other action taken or offered by the automated decision system.

B. Each creditor shall establish and maintain policies and procedures that are reasonably designed to ensure compliance with this section.

C. Nothing in this section shall be construed to (i) create a new basis for liability or expand the remedies available under this chapter, (ii) alter the allocation of liability under state or federal law, or (iii) require the disclosure of proprietary or confidential information or trade secrets.

D. Compliance with this section shall not be construed to affect the applicability of any other provision of this chapter or of federal law governing equal credit opportunity.

§ 6.2-506. Commission regulations.

The Commission shall adopt regulations to effectuate the purposes of this chapter provided that such regulations conform to and are no broader in scope than regulations, and amendments thereto, adopted by the Consumer Financial Protection Bureau under the federal Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.). Such conforming regulations shall exempt from the coverage of this chapter any class of transactions which may be exempted from time to time from the federal Equal Credit Opportunity Act (15 U.S.C. § 1691 et seq.), by regulations of the Consumer Financial Protection Bureau. Additionally, the Commission may issue guidance on best practices for the use of an automated decision system with respect to an application for credit.