Common Cause
National Action Network
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
The Leadership Conference on Civil and Human Rights
The Legal Defense Fund
UnidosUS
United Church of Christ Media Justice Ministry

September 14, 2026

The Honorable John Thune
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Tim Scott
Chairman, Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Elizabeth Warren
Ranking Member, Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Leader Thune, Leader Schumer, Chairman Scott, and Ranking Member Warren:

The undersigned civil rights, housing, and consumer advocacy organizations write to you with significant concerns regarding artificial intelligence (AI) test projects authorized under section 10509 of the Digital Asset Market Clarity Act (H.R. 3633). Our organizations work to ensure that if AI is deployed, it is deployed responsibly and without discrimination in all sectors, including financial services. We believe it is essential for AI to advance fairness for all communities, particularly Black people and other people of color and other groups that have historically experienced discrimination. We are deeply concerned about the current draft of section 10509, which authorizes firms to obtain sweeping exemptions from the laws governing such services with inadequate guardrails. The implications for fundamental fair housing, fair lending, civil rights, privacy, and consumer protections cannot be overstated. This letter specifically focuses on concerns with section 10509; however, the undersigned organizations have additional views and potential concerns with other parts of H.R. 3633.

Automated systems and “black box” models in housing and financial services already pose risks of discrimination and consumer harm and therefore must adhere to these fundamental protections. AI has the capacity to create, perpetuate, amplify, and accelerate patterns of discrimination in housing and financial services. Recent research from the National Fair Housing Alliance Responsible AI Lab found that leading commercial Large Language Models (LLMs) produce racially steered housing recommendations, treating homebuyers of different races differently and steering Black homebuyers to areas of lower economic opportunity.[1]

Allowing firms to experiment on people without the expectation of enforcement invites high-risk trials in financial and housing markets, where unlawful discrimination has already produced unfair outcomes such as lack of fair credit access and severe racial homeownership and wealth gaps.[2] Such trials could ultimately increase unfair barriers to affordable housing and credit access for Black people and other groups, while blocking efforts to address those barriers.

AI tools have led to both disparate treatment and unjustified disparate impacts, which occur when facially neutral policies, models, and systems disproportionately harm people on a prohibited basis and those policies are not justified by a legitimate purpose. Both practices can violate existing hard-won civil rights protections for underserved communities, including people of color, women, people with disabilities, and more. Permitting regulated entities to experiment on people without rigorous civil rights guardrails and consumer safety standards could erode longstanding protections in the Fair Housing Act, Equal Credit Opportunity Act, 12 U.S.C. § 4545, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and related statutes, and undermine Congress' carefully constructed statutory schemes. In effect, agencies would be allowed to delegate the legislative authority to each financial institution to write its own bespoke laws under the bill's current requirements for alternative compliance plans.

Section 10509 creates a significant risk for regulatory capture and unfair competition. Firms favored by the leadership of an agency could obtain significant benefits over their competitors through an AI test project at the expense of individuals obtaining those products, their responsible competitors, and the broader financial services market. Further, under section 10509, the mandatory reports to Congress are barred from identifying participating entities, foreclosing the transparency needed for civil rights organizations or the public to detect discriminatory outcomes from AI systems operating under a live waiver. The breadth of discretion given to agency heads to grant exemptions from fundamental protections could lead to rules only being enforced on the disfavored, programs being administered in an unlawful and discriminatory manner, or agencies simply abdicating statutory responsibility. At a time when algorithmic underwriting and automated valuation models are already documented sources of racial bias in mortgage lending and appraisal, Congress should not authorize federal agencies to waive fair lending oversight of AI systems through an opaque, highly discretionary process.

The following scenarios, all legal under the regime envisioned by section 10509, highlight our concerns:

- An AI test project could evade the recent 21st Century ROAD to Housing Act reconsideration of value requirement and allow a firm to ignore a consumer that alleged an appraisal showed racial bias;

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[1] Samad, H., Lam, T., Mügge-Durum, C., & Akinwumi, M. (2026). *The Geography of Algorithmic Judgment: LLM Intermediaries, Place Identity, and Racial Steering in Housing Search* (arXiv:2606.06694) arXiv. https://arxiv.org/abs/2606.06694

[2] *See, e.g., Open Communities v. Harbor Group Management Co., LLC*, No. 1:23-cv-14070 (N.D. Ill. Sept. 25, 2023), https://www.open-communities.org/post/press-release-open-communities-reaches-accord-in-case-addressing-artificial-intelligence-communicat

- A firm could get approval to not collect critical race and ethnicity data for mortgage loans under the Home Mortgage Disclosure Act, effectively preventing fair lending oversight of its product by regulators and the public;
- A firm could obtain a safe harbor that it would not be subject to enforcement even if evidence showed it unlawfully denied Black applicants for mortgage loans with similar creditworthiness to White applicants; or
- A firm could obtain an approval to offer only high-cost, inferior term financial products to geographies with high concentrations of Black and Latino applicants, while offering superior products exclusively in areas with high concentrations of White applicants.

In addition, widespread incidents of AI models breaking out of their test environments warrant increased security around AI testing environments—not less, as this bill seeks to do. In July 2026, an OpenAI model escaped its testing environment to hack into Hugging Face, an external website. OpenAI did not realize this happened until a week later when Hugging Face reported it to law enforcement.[3] Similarly in the UK, the United Kingdom AI Security Institute found that during a routine cyber test, an Anthropic model escaped from a test sandbox and installed malware into a piece of open-source software.[4] An independent AI auditing startup, Irregular, addressed similar incidents in which models from Meta, OpenAI, and Anthropic were able to break out of their testing environment and gain unauthorized internet access.[5]

These incidents indicate that frontier models are currently already capable of failing to comply with rules and regulations in a controlled environment. They are able to deceive humans, gain unauthorized access, and cause external harm even in supervised environments. Simply put, at present AI cannot be safely tested in a way that will keep people safe in a bounded environment where regulations are suspended.

For these reasons, the undersigned civil rights, housing, and consumer advocacy organizations cannot support section 10509 in H.R. 3633. We appreciate your attention to this matter and welcome the opportunity to discuss these concerns further. Thank you for your consideration.

Sincerely,

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[3] https://openai.com/index/hugging-face-model-evaluation-security-incident/
[4] https://www.aisi.gov.uk/blog/incident-report-unsanctioned-agent-behaviour-during-cyber-testing
[5] https://www.politico.com/news/2026/08/15/ai-safety-testing-wild-west-01038817