

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 738 (Delegate Frick, *et al.*)  
Economic Matters

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Consumer Protection - Free Credit Reports and Credit Scores - Prohibited Practices

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This bill prohibits a person from offering a consumer a free credit report or credit score if the offer is contingent on the consumer either purchasing goods or services or enrolling in a program or subscription service that requires the consumer to make a payment. Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

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Fiscal Summary

**State Effect:** The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources.

**Local Effect:** The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** Upon request and proper identification of a consumer, a consumer reporting agency must provide the consumer:

- an exact copy of any file on the consumer, except any part of the file which contains medical information;

- a written explanation of codes or trade language used;
- a description of the rights of the consumer relating to consumer credit reporting agencies; and
- the name, address, and telephone number of the Commissioner of Financial Regulation.

A consumer reporting agency may not impose a fee for the first consumer report issued during a 12-month period. An agency may charge a reasonable fee, not to exceed \$5, for any subsequent report within that 12-month period. However, a consumer reporting agency may not charge a fee for a consumer report requested by a consumer within 30 days after the consumer receives (1) notification of a denial of employment, credit, or insurance because of information regarding the consumer's credit; or (2) notification from a debt collection agency affiliated with a consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected. The agency also may not charge a fee for disclosing to certain persons the deletion of inaccurate or unverifiable information in a consumer report.

If a consumer reporting agency charges any fee, the agency must indicate the amount of the fee to the consumer prior to providing the report or furnishing the information.

A consumer may file a complaint with the Commissioner of Financial Regulation. The commissioner's enforcement authority includes issuing cease and desist orders and imposing a civil penalty of up to \$100 for each violation.

An unfair or deceptive trade practice under MCPA includes any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer service; the extension of consumer credit; and the collection of consumer debt.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

**Background:** Under the federal Fair Credit Reporting Act (FCRA), consumers have the right to obtain free credit reports every 12 months from each of the three nationwide

credit reporting companies: Experian, Equifax, and TransUnion. Commercial websites that claim to offer free credit reports are required to include information on their websites notifying consumers of their right to obtain free credit reports and directing consumers to [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com), the official website created by the nationwide credit reporting companies to comply with FCRA. According to the Federal Trade Commission, many companies claim to offer free credit reports; however, some of those companies then bill consumers for services that must be canceled by the consumer.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Federal Trade Commission, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2011  
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