National Consumer Law Center

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Written Testimony of Ariel Nelson,
National Consumer Law Center
Before the Senate Finance Committee of the Maryland General Assembly
in favor of S.B. 41
January 30, 2024

Dear Chair Beidle, Vice Chair Klausmeier, and Honorable Members of the Committee:

On behalf of the National Consumer Law Center (NCLC),[1] I thank you for holding this hearing on S.B. 41, An Act Concerning Consumer Protection - Consumer Reporting Agencies - Information in Consumer Credit Reports, which would harmonize Maryland law with the federal Fair Credit Reporting Act (FCRA).

The federal FCRA prohibits the reporting of obsolete adverse information.[2] Congress did not want to burden consumers who demonstrated improved credit performances with old adverse information in current consumer reports.[3] As a result, most adverse information more than seven years old may not be reported.[4] However, in three specific situations, the FCRA allows consumer reporting agencies (CRAs) to furnish consumer reports containing information that would normally be considered obsolete. These three situations involve transactions that exceed certain dollar amounts,[5] which amendments to the FCRA in 1996 updated:[6]

- A "credit transaction involving, or which may reasonably be expected to involve a principal amount of $150,000 or more;"[7]
- The "underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of $150,000 or more;"[8] or

[1] NCLC is a nonprofit organization specializing in consumer protection issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. NCLC also publishes and annually supplements twenty-one consumer law practice treatises, including *Fair Credit Reporting* (10th ed. 2022). It is from this vantage point–many years of observing and analyzing the credit reporting system, including problems with inaccuracies and the ability to access information about ourselves–that NCLC offers this testimony.
[2] 15 U.S.C. § 1681c(a); FTC Staff Summary § 605(a) items 1 and 4 (2011).
[3] S. Rep. No. 91-517, at 1 (1969).
[4] 15 U.S.C. § 1681c.
[5] *Id.* § 1681c(b).
[6] Pub. L. No. 104-208, 110 Stat. 3009 (Sept. 30, 1996).
[7] 15 U.S.C. § 1681c(b)(1).
[8] *Id.* § 1681c(b)(2).

- The “employment of any individual at an annual salary which equals, or which may reasonably be expected to equal, $75,000 or more.”[9]

If a CRA relies on one of these exemptions in disclosing obsolete information, then it bears the burden of proving that the exemption applies.[10]

Section 14-1203 of the Commercial Law Article of the Maryland Code contains prohibitions against reporting obsolete information similar to those in the FCRA. It also contains equivalent exemptions involving credit transactions, the underwriting of life insurance, and annual salaries that exceed certain dollar amounts. However, under Maryland law, the specific dollar amounts listed in these exemptions are lower–$50,000, $50,000, and $20,000, respectively.

This bill would harmonize the exemptions in Section 14-1203 for transactions exceeding certain monetary thresholds and federal law by adopting the higher dollar amount thresholds in the FCRA. Such a bill is eminently reasonable and warranted. It would ensure that the exemptions to the prohibition against reporting obsolete information are appropriately limited, preventing consumers from being indefinitely held back by old, adverse information.

I thank you for considering S.B. 41 and urge you to vote it favorably out of committee.

Sincerely,

Ariel Nelson
Staff Attorney
National Consumer Law Center

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[9] *Id.* § 1681c(b)(3).
[10] *See* Nat’l Consumer Law Ctr., *Fair Credit Reporting* § 5.2.4 & n.265 (10th ed. 2022), *updated at* www.nclc.org/library (collecting cases).

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Uploaded by: Franz Schneiderman
Position: FAV

Auto Consumer Alliance
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Testimony to the Senate Finance Committee
SB 41 – Consumer Protection – Consumer Reporting Agencies –
Information on Consumer Credit Reports
Position: Favorable

Jan. 31, 2024

The Honorable Pam Beidle
Senate Finance Committee
3 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Senate Finance Committee

Honorable Chair Beidle and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a nonprofit group that works to safeguard Maryland consumers and for safety, transparency and fair treatment for Maryland drivers and car buyers.

We support **SB 41** because it will modernize Maryland's credit reporting rules, make them consistent with federal rules, and give consumers some additional protections against the use of quite dated information in credit reporting.

The bill would significantly raise the threshold levels above which consumer reporting agencies are exempt from the general prohibition against using information that is more than seven years old under MD law in mortgage lending (from $50K to $150K), life insurance transactions (also from $50K to $150K), and (most importantly, I think) in hiring decisions (from allowing the use of older credit data for jobs paying more than $20K to those paying more than $75K).

The use of credit reporting in hiring and pay decisions, in particular, has long been controversial. That's in part because it's often hard to see what a person's credit history has to do with their ability to do most jobs. But also because using credit records that way can make it difficult for low-income people who have struggled to pay their bills or people whose credit records have suffered a reversal as a result of a layoff or illness or other misfortune to get the jobs they need.

The high frequency of mistakes in consumers' credit reports makes the use of those reports in hiring and other decisions even more problematic. In a 2021 Consumer Reports survey of 6,000 people who reviewed their own credit reports, 34% reported finding misinformation in their reports and 29% reported inaccuracies in their basic personal information.[1] A 2012 FTC study found that

[1] https://www.consumerreports.org/media-room/press-releases/2021/06/consumer-reports-investigation-finds-more-than-one-third-of-consumers-found-errors-in-their-credit-reports/

Auto Consumer Alliance
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21% of consumers had verifiable errors in their reports and 5% of consumers had errors so serious that they put them in a higher risk tier than they should have been rated.[2]

Now older credit information is likely to be even more subject to errors or mistaken identity issues (i.e., confusion of one consumer with another, a frequent source of errors on credit reports) than more current reports. So the information in question here (credit issues from more than seven years ago) is likely to be both unreliable and of limited relevance to a consumer's current behavior.

To be fair, Maryland has sharply limited the ways a credit record can be used in job and pay decisions. But Maryland's 2011 Job Applicant Fairness Act does allow credit information to be used in hiring for certain categories of jobs or in cases where a business has a "bonafide reason" for using the information. And the concerns often cited as that kind of reason – such as access to confidential information, proprietary techniques, or collecting debts for a company -- are broad enough that they would impact many people in middle-income positions. [3]

Since the pay for some of those positions would fall below the $75K cap this bill would establish for the use of older credit information but above the current threshold of $20K, one of the key impacts of this bill would be to make it illegal under MD law (as well as federal law) to use old, not very reliable information about credit concerns against applicants for these jobs.

At the same time, the bill would give consumers additional protections under MD law against the use of such dated and unreliable credit information in some lending and life insurance decisions.

Consumer Auto supports SB 41 and urges a FAVORABLE report.

Sincerely,

Franz Schneiderman
Consumer Auto

[2] https://www.ftc.gov/news-events/news/press-releases/2013/02/ftc-study-five-percent-consumers-had-errors-their-credit-reports-could-result-less-favorable-terms
[3] See Maryland DLLR guide to the law here: https://www.dllr.state.md.us/labor/wages/essjobappfairness.shtml

SB41_AARP_Morgan_FAV.pdf
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SB 41 – Consumer Protection – Consumer Reporting Agencies – Information in Consumer Credit Reports
FAVORABLE
Senate Finance Committee
January 31, 2024

Good afternoon, Chairman Beidle and Members of the Senate Finance Committee. I. am Karen Morgan, a member of the Executive Council for AARP-Maryland. As you may know, AARP Maryland is one of the largest membership-based organizations in the Free State, encompassing almost 850,000 members. We thank Senator Lam for sponsoring this legislation.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

SB 41 places reasonable guardrails on the reporting of adverse information in a consumer's credit report, reporting that may still occur even after the passage of substantial periods of time and under routine circumstances. A typical example of how the current reporting standards could severely affect a consumer relates to the declaration of bankruptcy. Generally, a consumer who had to declare bankruptcy would expect that after a period of time – ten years in the case of bankruptcies – that this adverse information would no longer appear in their credit report, especially if no other bankruptcies or other adverse events (defaults, debt collections, etc.) occurred.

That consumer might be surprised to learn that if they applied for a job with a salary exceeding the relatively modest amount of $20,000, applied for credit exceeding $50,000 (which could easily occur when trying to purchase a car or house) or wanted to secure a life insurance policy with a face value that exceeds $50,000 (a minimal policy, especially if the goal is to provide for family members in the event of the consumer's death) then that bankruptcy may still be reported by a credit reporting agency, even though the bankruptcy happened ten or more years ago and is ancient history.

The consumer may then run into obstacles in a search for a job, credit, or housing that have absolutely nothing to do with that ten-year-old bankruptcy. It is not hard to imagine the confusion and frustration that could result from being rejected due to the negative report of a financial setback which is no longer relevant, especially if the consumer worked diligently to bolster management of their finances to avoid the occurrence of a bankruptcy or any other adverse financial events in the future.

SB 41 limits the circumstances which allow the issuance of specified adverse information in a consumer credit report, despite the passage of seven to ten years since a setback or adverse financial event occurred. SB 41 increases those thresholds so that credit reports about bankruptcies, defaults, arrests and convictions, or other adverse action may not be reported by a consumer credit reporting agency unless the transaction involves significantly more financial risk, either by a credit transaction exceeding $150,000, an insurance policy exceeding $150,000, or employment at a salary exceeding $75,000.

AARP supports SB 41 and respectfully requests the Senate Finance Committee to issue a favorable report. For questions, please contact Tammy Bresnahan, Director of Advocacy for AARP Maryland at tbresnahan@aarp.org , or by calling 410-302-8451.

SB41 Written Testimony.pdf
Uploaded by: Marceline White
Position: FAV

Testimony to the Senate Finance Committee
SB41: Consumer Protection – Consumer Reporting Agencies – Information in Consumer Credit Reports
Position: Favorable

January 30, 2023

The Honorable Pamela Beidle, Chair
3 East
Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Senate Finance Committee

Honorable Chair Wilson and members of the committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances economic rights and equity for Maryland families through research, education, direct service, and advocacy. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in support of SB41. SB41 harmonizes the Maryland Consumer Credit Reporting Act with the federal Fair Credit Reporting Act (FCRA). The FCRA sets time limits for how long certain negative information can be included on a consumer's credit report. Because an individual's credit history and credit score affect their ability to buy or rent a home, car, or receive a loan, it's important that a person's history reflects their current financial situation.

The FCRA contains three exemptions to the prohibitions on reporting obsolete information. Consumer credit reports can still include old information when a report is used in connection with: 1) credit transactions with principal amounts larger than $150,000 (e.g. a mortgage); 2) life insurance policies larger than $150,000; and 3) job applications involving jobs with salaries over $75,000. These financial thresholds in these exemptions were updated in 1996.

SB41 will update Maryland's Consumer Credit Reporting Act to conform to the FCRA thresholds. This provides clarity and harmony between federal and state law and reflects current economic conditions.

For all these reasons, we support SB41 and urge a favorable report.

Best,

Marceline White
Executive Director

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Uploaded by: Tonaeya Moore
Position: FAV

SB 41 - Consumer Protection - Consumer Reporting Agencies - Information in Consumer Credit Reports
Finance Committee
January 31, 2024
SUPPORT

Chair Beidle, Vice-Chair Klausmeier, and members of the committee, thank you for the opportunity to submit testimony in support of Senate Bill 41. This bill would update the Maryland Consumer Credit Reporting Act to align with the federal law to match the reporting thresholds in consumer credit reports.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than $10,000 annually. More than half earn less than $20,000.**

It is critical to update the Maryland Consumer Credit Reporting Act, as it is a law that regulates the collection, dissemination and use of consumer credit information. Part of this law prohibits consumer reporting agencies from including certain information that is older than 7 years in consumer reports. There are three exemptions to this law that SB 41 would change to match federal law by increasing:

- Credit transactions with principal amounts larger than $50,000 to $150,000 or more;
- Life insurance policies larger than $50,000 to $150,000 or more; and
- Job applications involving jobs with salaries over $20,000 to $75,000 or more.

Cost of living in Maryland and around the country is increasing, so the laws should be updated to accurately reflect costs. The average salary in Maryland is $70,730 per year[1], compared to $3,949 in 1970[2] when the original law was enacted. Statistics show that low-income workers face greater challenges accessing credit and maintaining good credit. The Consumer Financial Protection Bureau found that residents in low-income areas are 240% more likely to become credit visible due to negative records.[3] It is time for Maryland to update the same exemptions to match with federal law as to not disproportionately harm low-income Marylanders.

Thus, we encourage you to return a favorable report for SB 41.

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[1] MSA: https://msa.maryland.gov/msa/mdmanual/01glance/economy/html/wages.html
[2] MSA: https://msa.maryland.gov/msa/mdmanual/01glance/economy/html/income.html
[3] CGPB: https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-study-finds-consumers-lower-income-areas-are-more-likely-become-credit-visible-due-negative-records/

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Position: FAV

Testimony to the Senate Finance Committee
SB41: Consumer Protection – Consumer Reporting Agencies – Information in Consumer Credit Reports
Position: Favorable

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