



National
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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

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).