

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 927 (Delegate Owings)
Economic Matters

Consumer Protection - Consumer Credit Reporting Agencies - Prohibited
Reporting of Obsolete Information

This bill increases, for consumer credit reports, the transaction amounts for the exemptions from the prohibitions against reporting specified adverse information as follows: (1) for credit transactions and life insurance underwriting, from \$50,000 to \$150,000; and (2) for employment, from \$20,000 to \$75,000. The bill also repeals the prohibition against reporting indictments or criminal convictions more than seven years after disposition, release, or parole.

Fiscal Summary

State Effect: Enforcement could be handled with the existing budgeted resources of the Commissioner of Financial Regulation.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A consumer reporting agency generally may not make a consumer report containing: (1) bankruptcies that antedate the report by more than ten years from the adjudication date; (2) suits and judgments that antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is longer; (3) records of arrest, indictment, or conviction that antedate the report by more than seven years from the date of disposition, release, or parole; or (4) paid tax liens, accounts placed

for collection or charged to profit and loss, or any other adverse item of information that antedates the report by more than seven years.

These prohibitions do not apply to a consumer credit report to be used in connection with: (1) a credit transaction involving, or that reasonably may be expected to involve, a principal amount of at least \$50,000; (2) the underwriting of life insurance involving, or that reasonably may be expected to involve, a face amount of at least \$50,000; or (3) the employment of an individual that equals, or that reasonably may be expected to equal, at least \$20,000.

Background: Under the federal Fair Credit Reporting Act (15 U.S.C. § 1681c), a consumer reporting agency generally may not make a consumer report containing: (1) cases under Title 11 of the U.S. Code (the bankruptcy code) or the Bankruptcy Act that antedate the report by more than ten years from the entry date on the relief order or the adjudication date; (2) civil suits, civil judgments, and records of arrest that antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is longer; or (3) paid tax liens, accounts placed for collection or charged to profit and loss, or any other adverse item of information other than a criminal conviction that antedates the report by more than seven years.

These prohibitions do not apply to a consumer credit report to be used in connection with: (1) a credit transaction involving, or that reasonably may be expected to involve, a principal amount of at least \$150,000; (2) the underwriting of life insurance involving, or that reasonably may be expected to involve, a face amount of at least \$150,000; or (3) the employment of an individual that equals, or that reasonably may be expected to equal, at least \$75,000.

Generally, the federal Act does not preempt state consumer credit reporting laws, except to the extent that the state law is inconsistent with the federal Act, and then, only to the extent of the inconsistency. However, the Act does specifically preempt some state enactments. Specifically, under 15 U.S.C. § 1681t(b)(1)(E), no requirements or prohibition may be imposed under the laws of any state not in effect on September 30, 1996 with respect to any subject matter under 15 U.S.C. § 1681c (cited above) relating to information contained in consumer reports. The federal Act does, under prescribed conditions, authorize states to offer greater protections to consumers. Specifically, under 15 U.S.C. § 1681t(d)(2), the restrictions of subsection (b) do not apply to any provision of state law that: (1) is enacted after January 1, 2004; (2) states explicitly that it is intended to supplement the consumer reporting provisions of the Fair Credit Reporting Act; and (3) gives greater protection to consumers than the consumer reporting provisions of the Fair Credit Reporting Act provides.

Maryland's laws regarding the exclusion of information from a consumer report were established under Chapter 584 of 1976 and last modified under Chapter 441 of 1992.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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