HOUSE BILL 642

By: Delegate Palakovich Carr
Introduced and read first time: January 22, 2021
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 Consumer Protection – Maryland Consumer Reporting Act – Regulations

3 FOR the purpose of requiring that certain regulations relating to the Maryland Consumer
4 Reporting Act required to be adopted by the Commissioner of Financial Regulation
5 include procedures for developing standards for achieving certain accuracy in
6 matching certain information, developing a system for the exclusion of certain
7 records, and tracking and addressing the causes of certain consumer complaints; and
8 generally relating to the Maryland Consumer Reporting Act.

9 BY repealing and reenacting, without amendments,
10 Article – Commercial Law
11 Section 14–1201(a), (c), (d), (e), and (f)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 14–1226(f)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2020 Supplement)

Preamble

WHEREAS, The Fair Credit Reporting Act and the Maryland Consumer Reporting
Act govern the generation, accuracy, and use of consumer reports and specifically require
consumer reporting agencies to follow reasonable procedures to ensure maximum possible
accuracy of the information concerning the individuals to whom the reports relate; and

WHEREAS, When consumer reporting agencies fail to adhere to the standards
required by federal and State law, serious errors occur in consumer reports; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
WHEREAS, In 2015, Maryland was one of 31 states that reached a settlement with three nationwide consumer reporting agencies (Equifax, Experian, and TransUnion); and

WHEREAS, The three nationwide consumer reporting agencies agreed to make a number of changes to their business practices to benefit consumers, including adhering to federal and state laws, adopting measures to ensure the accuracy of consumer reports, and updating standards relating to the collection of public records data; and

WHEREAS, The Federal Trade Commission took action against RealPage in 2018 and AppFolio in 2020 for failing to follow reasonable procedures to ensure maximum possible accuracy of criminal record information in tenant screening reports; and

WHEREAS, In its Winter 2017 Supervisory Highlights Consumer Reporting Special Edition report, the Consumer Financial Protection Bureau (CFPB) outlined specific improvements to the consumer reporting process that resulted from CFPB’s supervision of the procedures used by nationwide consumer reporting agencies regarding data accuracy and dispute handling, including stricter matching criteria for public records; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Commercial Law

14–1201.

(a) In this subtitle the following words have the meanings indicated.

(c) “Commissioner” means the Commissioner of Financial Regulation of the Maryland Department of Labor.

(d) “Consumer” means an individual.

(e) (1) “Consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Other purposes authorized under § 14–1202 of this subtitle.

(2) The term does not include:
(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

(iii) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under § 14–1212 of this subtitle.

(f) (1) “Consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports.

(2) “Consumer reporting agency” does not include:

(i) A person licensed as a private detective agency or certified as a private detective under the Maryland Private Detectives Act; or

(ii) A person who assembles and exchanges consumer credit information with an affiliated person or a person who is owned or controlled by the same entity, provided that, in the event of an adverse credit decision against a consumer based on that information, the entity making the decision shall comply with the notice requirements of § 14–1212(b) of this subtitle.

14–1226.

(f) (1) The Commissioner shall adopt regulations necessary to administer the provisions of this subtitle.

(2) The regulations shall include procedures for:

(i) Achieving accuracy in information collected and maintained in consumer files;

(II) DEVELOPING STANDARDS, IN ACCORDANCE WITH § 14–1205 OF THIS SUBTITLE, FOR ACHIEVING THE MAXIMUM POSSIBLE ACCURACY IN MATCHING THE PERSONALLY IDENTIFIABLE INFORMATION IN A CONSUMER’S FILE OR OTHERWISE OBTAINED FROM A CONSUMER WITH THE PERSONALLY IDENTIFIABLE INFORMATION FROM ANY PUBLIC RECORD BEING REPORTED BY THE
CONSUMER REPORTING AGENCY, INCLUDING REQUIRING THAT THE MATCH BE
BASED ON THE FULL NAME OF THE CONSUMER AND EITHER:

1. **THE FULL SOCIAL SECURITY NUMBER OF THE**
   CONSUMER; OR

2. **THE FULL DATE OF BIRTH PLUS ANOTHER**
   CHARACTERISTIC SUCH AS GENDER, RACE, ETHNICITY, OR PHYSICAL DESCRIPTION
   OF THE CONSUMER;

   [(ii)] (III) Developing a system to facilitate correction of information
   in a consumer file at each credit reporting agency on correction at one consumer reporting
   agency;

   (IV) DEVELOPING A SYSTEM FOR THE EXCLUSION OF
   DUPLICATE, OUTDATED, SEALED, AND EXPUNGED PUBLIC RECORDS;

   (V) TRACKING AND ADDRESSING THE CAUSES OF CONSUMER
   COMPLAINTS REGARDING INACCURACIES IN CONSUMER REPORTS;

   [(iii)] (VI) Periodically distributing to the public a current listing of
   the names, addresses, and telephone numbers of consumer reporting agencies that
   maintain information or provide consumer reports on residents of the State; and

   [(iv)] (VII) Calculating the required bond amounts under this
   subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2021.