

HOUSE BILL 251

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HB 642/21 – ECM

2lr1523

By: **Delegate Palakovich Carr**

Introduced and read first time: January 13, 2022

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Maryland Consumer Reporting Act – Registration of**
3 **Consumer Reporting Agencies and Regulations**

4 FOR the purpose of authorizing the Commissioner of Financial Regulation to deny, refuse
5 to renew, suspend, or revoke the registration of a consumer reporting agency under
6 certain circumstances; requiring that regulations relating to the Maryland
7 Consumer Reporting Act required to be adopted by the Commissioner include
8 procedures for developing standards for achieving maximum possible accuracy in
9 matching certain information, developing a system for the exclusion of certain public
10 records, and tracking and addressing the causes of certain consumer complaints; and
11 generally relating to the Maryland Consumer Reporting Act.

12 BY repealing and reenacting, without amendments,
13 Article – Commercial Law
14 Section 14–1201(a), (c), (d), (e), and (f) and 14–1215
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2021 Supplement)

17 BY adding to
18 Article – Commercial Law
19 Section 14–1216(f)
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2021 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Commercial Law
24 Section 14–1226(f)
25 Annotated Code of Maryland
26 (2013 Replacement Volume and 2021 Supplement)

27 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

7 WHEREAS, In 2015, Maryland was one of 31 states that reached a settlement with
8 three nationwide consumer reporting agencies (Equifax, Experian, and TransUnion); and

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

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

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

21 WHEREAS, The CFPB issued an advisory opinion in November 2021 affirming that
22 consumer reporting agencies that use inadequate matching procedures to match
23 information to consumers in preparing consumer reports, including name-only matching,
24 are not using reasonable procedures to assure maximum possible accuracy; now, therefore,

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

27 **Article – Commercial Law**

28 14–1201.

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

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

32 (d) “Consumer” means an individual.

33 (e) (1) “Consumer report” means any written, oral, or other communication of

1 any information by a consumer reporting agency bearing on a consumer's credit worthiness,
2 credit standing, credit capacity, character, general reputation, personal characteristics, or
3 mode of living which is used or expected to be used or collected in whole or in part for the
4 purpose of serving as a factor in establishing the consumer's eligibility for:

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

7 (ii) Employment purposes; or

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

9 (2) The term does not include:

10 (i) Any report containing information solely as to transactions or
11 experiences between the consumer and the person making the report;

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

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

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

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

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

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

33 14–1215.

34 A consumer reporting agency shall register each year with the Commissioner under

1 this subtitle.

2 14–1216.

3 **(F) (1) THE COMMISSIONER MAY DENY, REFUSE TO RENEW, SUSPEND, OR**
4 **REVOKE THE REGISTRATION OF A CONSUMER REPORTING AGENCY IF THE**
5 **COMMISSIONER DETERMINES THAT THE CONSUMER REPORTING AGENCY HAS:**

6 **(I) PROVIDED MATERIALLY INCORRECT, MISLEADING,**
7 **INCOMPLETE, OR FALSE INFORMATION IN CONNECTION WITH THE REGISTRATION**
8 **PROCESS;**

9 **(II) COMMITTED FRAUD WHILE ACTING AS A CONSUMER**
10 **REPORTING AGENCY;**

11 **(III) FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS**
12 **SECTION OR ANY RULE OR REGULATION ADOPTED IN ACCORDANCE WITH THIS**
13 **SECTION;**

14 **(IV) VIOLATED ANY FEDERAL OR STATE LAW, REGULATION, OR**
15 **SUBPOENA;**

16 **(V) VIOLATED AN ORDER OF THE COMMISSIONER OR A**
17 **FEDERAL AGENCY WITH AUTHORITY TO REGULATE CONSUMER REPORTING**
18 **AGENCIES; OR**

19 **(VI) HAD A CONSUMER REPORTING AGENCY REGISTRATION, OR**
20 **THE EQUIVALENT, DENIED, SUSPENDED, OR REVOKED IN ANOTHER JURISDICTION.**

21 **(2) BEFORE REVOKING OR SUSPENDING THE REGISTRATION OF A**
22 **CONSUMER REPORTING AGENCY, THE COMMISSIONER SHALL:**

23 **(I) GIVE THE CONSUMER REPORTING AGENCY NOTICE; AND**

24 **(II) HOLD A HEARING AT LEAST 15 DAYS AFTER GIVING THE**
25 **NOTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH.**

26 **(3) IF THE COMMISSIONER REVOKES OR SUSPENDS THE**
27 **REGISTRATION OF A CONSUMER REPORTING AGENCY:**

28 **(I) THE COMMISSIONER SHALL GIVE THE CONSUMER**
29 **REPORTING AGENCY NOTICE OF THE REVOCATION OR SUSPENSION; AND**

30 **(II) THE REVOCATION OR SUSPENSION SHALL TAKE EFFECT**

1 IMMEDIATELY.

2 14-1226.

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

5 (2) The regulations shall include procedures for:

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

8 (ii) **DEVELOPING STANDARDS, IN ACCORDANCE WITH §**
9 **14-1205 OF THIS SUBTITLE, FOR ACHIEVING THE MAXIMUM POSSIBLE ACCURACY IN**
10 **MATCHING THE PERSONALLY IDENTIFIABLE INFORMATION IN A CONSUMER'S FILE**
11 **OR OTHERWISE OBTAINED FROM A CONSUMER WITH THE PERSONALLY**
12 **IDENTIFIABLE INFORMATION FROM ANY PUBLIC RECORD BEING REPORTED BY THE**
13 **CONSUMER REPORTING AGENCY, INCLUDING REQUIRING THAT THE MATCH BE**
14 **BASED ON THE FULL NAME OF THE CONSUMER AND EITHER:**

15 1. **THE FULL SOCIAL SECURITY NUMBER OF THE**
16 **CONSUMER;**

17 2. **THE FULL DATE OF BIRTH OF THE CONSUMER PLUS**
18 **ANOTHER PIECE OF PERSONALLY IDENTIFIABLE INFORMATION; OR**

19 3. **THE ADDRESS OF THE CONSUMER'S PRIMARY**
20 **RESIDENCE PLUS ANOTHER PIECE OF PERSONALLY IDENTIFIABLE INFORMATION.**

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

24 (iv) **DEVELOPING A SYSTEM FOR THE EXCLUSION OF**
25 **DUPLICATE, OUTDATED, SEALED, AND EXPUNGED PUBLIC RECORDS;**

26 (v) **TRACKING AND ADDRESSING THE CAUSES OF CONSUMER**
27 **COMPLAINTS REGARDING INACCURACIES IN CONSUMER REPORTS;**

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

31 [(iv)] (vii) Calculating the required bond amounts under this
32 subtitle.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2022.