

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 994 (Delegates Healey and Williams)  
Economic Matters

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Consumer Reporting Agencies - Records of Criminal Proceedings - Prohibition

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This bill prohibits a consumer reporting agency from including in a consumer report any record of a criminal proceeding concerning the consumer (1) in which the consumer was falsely accused, acquitted, or exonerated; (2) in which a *nolle prosequi* was entered as to a charge concerning the consumer; or (3) that did not result in a guilty verdict for (or guilty plea by) the consumer. A consumer reporting agency is also prohibited from including any criminal records concerning the consumer that have been expunged. A consumer reporting agency may not rely on the information contained in the aforementioned records when making a determination regarding the creditworthiness of a consumer.

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Fiscal Summary

**State Effect:** The Office of the Commissioner of Financial Regulation (OCFR) can enforce the bill with existing resources. Revenues are likely not materially affected.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:**

*Consumer Reports and Consumer Reporting Agencies*

A “consumer report” is 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 a consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes; (2) employment purposes; or (3) other specified purposes, as authorized by State law.

A "consumer reporting agency" is 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 the reports.

### *Prohibited Information in Consumer Reports*

Consumer reporting agencies may not report in a consumer credit report (1) bankruptcies of more than 10 years before the credit report; (2) suits and judgments of more than seven years before the report, or the expiration of the governing statute of limitations, whichever is longer; (3) paid tax liens whose payment date is more than seven years before the report; (4) accounts placed for collection or charged to profit and loss more than seven years before the report; (5) records of arrest, indictment, or conviction of crime whose date of disposition, release, or parole is more than seven years before the report date; or (6) any other adverse information that predates the report by more than seven years.

The prohibition against including the above information does not apply in the case of a consumer credit report to be used in connection with (1) a credit transaction whose principal amount may involve at least \$50,000; (2) the underwriting of life insurance with a face value of at least \$50,000; or (3) the employment of an individual in a position with a salary of at least \$20,000.

### *Commissioner of Financial Regulation – Investigative and Enforcement Powers*

OCFR has the power to vigorously investigate financial transactions to determine whether a person has violated a law, regulation, rule, or order over which the commissioner has jurisdiction. For the purposes of an investigation or proceeding, the commissioner may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, and require the production of documents and other evidence. If a person refuses to obey a subpoena from the commissioner, the commissioner may apply to the appropriate circuit court to issue an order requiring the person to appear before the commissioner and produce any requested evidence. If the court issues such an order, failure to obey it subjects the person to contempt of court.

When the commissioner determines, after notice and a hearing, as specified, that a person has engaged in a violation of a law, regulation, rule, or order, the commissioner may issue a cease and desist order, suspend or revoke the license of the violator, issue an order requiring the person to take corrective affirmative action, as specified, and/or issue a penalty order against the person for up to \$10,000 for a first violation and up to \$25,000 for each subsequent violation.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2023  
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