



THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of HB 642**  
**Consumer Protection – Maryland Consumer Reporting Act – Regulations**

Every day, Marylanders are rejected for a job, an apartment, a loan, or insurance because of inaccurate information on their consumer report. Instead of being judged on their own credit, criminal history, housing history, and employment, they are being unfairly judged using information about other people. This legislation would improve the accuracy of consumer reports so that Marylanders get a fair evaluation by lenders, landlords, and employers.

**Inaccuracies in Consumer Reports**

A consumer report contains information about an applicant's personal and financial characteristics, including their credit history, arrests and criminal convictions, evictions, and employment.

Errors in consumer reports are shockingly common. The Federal Trade Commission found that one in four consumers have a "potentially material error" in their consumer report that makes them look riskier than they actually are.<sup>1</sup> Errors "can cost a consumer thousands of dollars in higher-priced credit, or worse yet, result in the denial of a job, insurance coverage, an apartment rental, the ability to open a small business, or to buy a house."<sup>2</sup>

Some of the most common errors and inaccuracies in consumer reports include:

- reporting information about a different person, such as someone with a similar name but a different birthdate or Social Security number;
- including sealed or expunged criminal and bankruptcy records;
- including older records whose use are barred under federal law;
- reporting information in a misleading manner, such as reporting every court date for a single criminal charge;
- failing to provide the final outcome of an arrest, for example if the charges were dropped; and
- erroneously reporting the seriousness of an offense, such as reporting a misdemeanor as a felony.

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<sup>1</sup> 2015 FTC Report to Congress under Section 319 of the FCRA.  
<https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>

<sup>2</sup> National Consumer Law Center

## **Errors Harm Marylanders**

Inaccuracies on consumer reports can have devastating consequences for Marylanders struggling to find housing, employment, or access to credit, as these people are being judged erroneously based on wrong or outdated information.

Inaccuracies on consumer reports are especially detrimental for people of color. Many landlords use consumer reports to screen applicants for housing. Since a majority of Black and Latino residents rent their homes,<sup>3</sup> they are especially vulnerable to being rejected for housing because of inaccurate information. This is especially likely to happen if an applicant has a common name. This is particularly a concern for Latinos, as more than 12 million Latinos nationwide share just 26 surnames.<sup>4</sup>

We know that Marylanders are struggling with inaccuracies on their consumer reports. Over the past two years, 10,428 Marylanders have filed complaints with the Consumer Financial Protection Bureau about their consumer reports.<sup>5</sup> In fact, the most frequent source of complaints received by the Bureau was about consumer reports. Nearly 65% of complaints filed by Marylanders were about inaccurate information on a consumer report. The next most frequent complaint was about problems with a consumer reporting agency's investigation of errors on a consumer report.

Moreover, complaints filed by Marylanders are growing at an alarming rate. From 2019 to 2020, Maryland complaints increased by 60%. Overall, Marylanders have filed the 6th highest per capita number of consumer complaints in the nation.<sup>5</sup>

## **Case Study: Housing**

Inaccuracies in consumer reports are especially problematic in housing. Nine out of ten landlords rely on tenant screening reports to make decisions about who to rent to.<sup>6</sup> Many of these reports are generated automatically in seconds by computer algorithms and are never reviewed by a human being before they are provided to a landlord.

Furthermore, many landlords do not review the underlying records in a consumer report and instead rely upon the thumbs up or down assessment provided by the consumer reporting agency. This means that inaccurate and mismatched information is not caught on a consumer report prior to the rejection of the applicant.

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<sup>3</sup> "More U.S. households are renting than at any point in 50 years." Pew Research Center, 2017. <https://www.pewresearch.org/fact-tank/2017/07/19/more-u-s-households-are-renting-than-at-any-point-in-50-years/>

<sup>4</sup> "Hispanic Surnames Rise in Popularity." US Census Bureau, 2017. <https://www.census.gov/library/stories/2017/08/what-is-in-a-name.html>

<sup>5</sup> <https://www.consumerfinance.gov/data-research/consumer-complaints/>

<sup>6</sup> "How Automated Background Checks Freeze Out Renters." New York Times, 2020.

Given the current eviction crisis, many Marylanders will be seeking to rent new housing and may face an even harder time securing housing because of inaccuracies on their consumer report.

### **Burden is on the Consumer to Identify and Correct Inaccuracies**

Under federal and state law, the onus is on the consumer to ensure that the information on their consumer report is accurate. However, consumers do not have a way to check consumer reports in advance of their use to ensure their accuracy.

Eight million times a year, consumers contact one of the big three credit reporting agencies to dispute information. But, as the National Consumer Law Center concludes, consumer reporting agencies “have little economic incentive to conduct proper disputes or improve their investigations.”<sup>7</sup>

The dispute system also fails consumers due to the time lag between the adverse action (e.g. being rejected for an apartment) and the report being corrected. Under federal law, consumer reporting agencies can take up to 30 days to investigate a dispute raised by a consumer.<sup>8</sup> By the time that a consumer has contacted the reporting agency and the statutory period for data correction lapses, many landlords will have secured a different tenant by then.

Furthermore, there is no process by which a consumer can get all consumer reports about them fixed in one shot. Instead, a consumer has to make a complaint to each individual company. There are 57 consumer reporting agencies that do business in Maryland. If a person applies to multiple apartments, it is likely that each landlord uses a different screening company and that the consumer will have to undertake disputes with multiple companies in order to have their records corrected.

### **Issues with Compliance and Enforcement**

In spite of federal and state laws that are supposed to protect consumers, there are a multitude of documented compliance issues in recent years. Consumer reporting agencies have been repeatedly sanctioned by regulators, sued by aggrieved consumers, and reprimanded by district and appellate courts. The Federal Trade Commission (FTC) and many State Attorneys General have also investigated and sued major consumer reporting agencies and data furnishers for failing to maintain the accuracy of consumer reports.

#### **FTC Settlement with AppFolio**

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<sup>7</sup> “Automated Injustice: How a mechanized dispute system frustrates consumers seeking to fix errors in their credit reports,” National Consumer Law Center, 2009.

<sup>8</sup> In April 2020, the Consumer Financial Protection Bureau granted a temporary suspension of the 30 day standard. Now, consumer reporting agencies merely have to demonstrate a “good faith effort” to address inaccurate information on a consumer’s report, so disputes may take even longer to be resolved.

[https://files.consumerfinance.gov/f/documents/cfpb\\_credit-reporting-policy-statement\\_cares-act\\_2020-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf)

The FTC reached a \$4.25 million settlement with AppFolio in December 2020 for violations of the Fair Credit Reporting Act. AppFolio failed to ensure that criminal and eviction records it received from a third party vendor were accurate before including the records in its tenant screening reports. The company included records for individuals with a different name or birthdate; records with inaccurate dates and dispositions; and multiple entries for the same criminal or eviction action, among other errors. The FTC alleged that some applicants may have been denied housing or other opportunities because of these inaccuracies.

#### FTC Settlement with RealPage

In 2018, the FTC reached a \$3 million settlement against RealPage, a tenant screening company. An investigation revealed that the company used overly broad criteria to match applicants to criminal records and did not have policies or procedures in place to assess the accuracy of its data. RealPage's practices have led to the identification of criminal records that do not belong to applicants, costing prospective tenants a chance at finding a home.

#### State Attorneys General Settlement with Experian, Equifax, and TransUnion

In 2015, Attorneys General for 31 states (including Maryland) reached a settlement with three major national consumer reporting agencies for their noncompliance with federal law. The settlement required the companies to make a number of changes to their business practices, including increased monitoring of data furnishers, requiring additional information from furnishers of certain types of data, and providing greater protections for consumers who dispute information.

### **What This Bill Does**

In spite of the consumer protections under federal law, the "Big 3" settlement, and federal agency actions, the consumer reporting industry is still not playing by the rules. The Consumer Financial Protection Bureau has found that consumer reporting companies and furnishers continue to violate basic protections because they lack incentives and under-invest in accuracy.<sup>9</sup>

Maryland has previously enacted legislation and adopted regulations to regulate consumer reporting agencies, but additional action is needed to protect consumers.

This bill directs the Commissioner of Financial Regulation in the Maryland Department of Labor to promulgate regulations regarding accuracy of information on consumer reports, including:

- Creating standards for achieving "maximum possible accuracy" in consumer reports. This is the standard required by federal law for matching information from public records to a consumer's report.
- Developing a system for excluding duplicate, outdated, sealed, and expunged records.
- Developing procedures for tracking consumer complaints about inaccurate information and for addressing the causes of these inaccuracies.

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<sup>9</sup> CFPB Supervisory Highlights Consumer Reporting Special Edition, Issue 14, Winter 2017.