



Consumer Data Industry Association
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March 20, 2024

Chair Pamela Beidle
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

Chair Beidle & Members of the Committee:

HB622: Consumer Reporting Agencies - Records of Criminal Proceedings – Prohibition Unfavorable

On behalf of the Consumer Data Industry Association, I write to raise concerns regarding HB 622, which attempts to prohibit consumer reporting agencies (CRAs) from including certain criminal records on consumer reports and prohibit CRAs from relying on those prohibited records when determining a consumer's creditworthiness. We respectfully request that the committee reject this proposal as it is precluded by federal law.

CDIA, founded in 1906, is the trade organization representing the consumer reporting industry, including agencies like the three nationwide credit bureaus, regional and specialized credit bureaus, background check companies and others. CDIA exists to promote responsible data practices to benefit consumers and to help businesses, governments and volunteer organizations avoid fraud and manage risk.

In many ways, the Fair Credit Reporting Act (FCRA) can be considered the country's first national privacy law. The FCRA provides important and necessary protections to consumers, lenders, government agencies, law enforcement, volunteer organizations, and businesses who rely on full, complete and accurate consumer reports to make informed decisions.

The FCRA also serves as the legal floor for background checks in the United States. Maryland also has incorporated much of the FCRA into its Commercial Law article. These laws demand accuracy in background check processes and afford legal rights to consumers. Maintaining alignment between state consumer reporting laws and federal consumer reporting laws is critical.

Records of criminal proceedings are considered a public record under the FCRA and thus are eligible for inclusion in consumer reports. The records described in (A)(1) would fall under this category. However, expunged criminal records do not get reported by CRAs as they are no longer publicly available. Further, the FCRA has strict accuracy guidelines for the information contained in consumer reports and mechanisms for consumers to dispute content included in their reports as well as seek remedies.

In addition to setting requirements for what can be included in a consumer report, Congress also expressly reserved authority over limits to what CRAs may include in consumer reports to itself, preempting the states from establishing their own requirements or prohibitions relating to information contained in consumer reports. **As section (A) of HB 622 imposes requirements on CRAs as it relates to information to be included or excluded from consumer reports, it is preempted by 15 U.S.C. § 1681t(b)(1)(E).**

Section (B) misinterprets the role of CRAs and their relationship to users of consumer reports and as a result is unnecessary. CRAs do not make determinations regarding the creditworthiness of a consumer. Decisions on those matters are made by the party interaction with the consumer, whether they

obtained a consumer report, relied on the contents of that consumer report in making a determination of creditworthiness or neither.

We respectfully request that the committee reject HB 622 and issue an unfavorable report on this measure given that section (A) conflicts with the FCRA and is preempted and that section (B) would have no impact as CRAs do not make determinations of the creditworthiness of a consumer.

CDIA and its members stand ready to work with this committee on consumer report-related matters. Please contact me via email at ztaylor@cdiaonline.org should you, your staff, or your colleagues wish to discuss our concerns in greater detail.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'ZWT', with a stylized flourish extending to the right.

Zachary W. Taylor
Director, Government Relations
Consumer Data Industry Association

CC: Maryland Senate Finance Committee