



Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

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P 202 371 0910

Delegate Kriselda Valderrama
Chair
House Economic Matters Committee
Maryland House of Delegates
230 Taylor House Office Building
Annapolis, Maryland 21401

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Chair Valderrama, Vice Chair Charkoudian, and Members of the Committee:

On behalf of the Consumer Data Industry Association (CDIA), I write to express our concerns regarding provisions in HB 313 that conflict with the Fair Credit Reporting Act (FCRA) and are incongruous with the consumer reporting ecosystem, as well as the proposed private right of action associated with those provisions. For the reasons outlined below, we respectfully request the committee reject this bill or otherwise amend Sec. to alleviate conflict between the FCRA and the consumer reporting system.

CDIA represents the consumer reporting industry and consumer reporting agencies (CRAs), including nationwide credit bureaus, regional and specialized credit bureaus, background check companies, and more. Since our founding in 1906, we have promoted the responsible use of consumer data to empower financial opportunities, reduce fraud, and manage risk. Through data and analytics, CDIA members empower economic opportunity, thereby helping ensure fair and safe transactions for consumers and facilitating consumer's access to financial products and other services suited to their unique needs.

Most importantly, consumer reporting agencies, the furnishers that provide them with information, and consumer reports themselves are all already tightly regulated by the FCRA, which establishes a comprehensive framework for our industry. The FCRA regulates the contents of consumer reports at 15 USC §1681c, which authorizes the inclusion of public records related to eviction proceedings.

In adopting the FCRA, Congress limited states' capacity to independently or differently regulate the consumer reporting system. This includes preempting, via 15 USC §1681t(b)(1)(E), any state legislation that limits or prohibits the kind of information that can go on a consumer report, including limits on eviction records provided to a consumer reporting agency by Maryland or any other state.

State legislation that attempts to regulate credit reporting can unleash many unintended consequences because the credit reporting system operates across all jurisdictions. Only national, uniform standards can achieve the dual goals of protecting consumers and maintaining accurate credit reports, which is why CDIA must oppose these provisions.

Suppressing accurate eviction case information can create unintended consequences for Marylanders by making consumer reports less complete, less accurate, and therefore less reliable. However, if Maryland intends to limit access to these records, it is the Courts, not CRAs, who are best positioned to limit access to this information as these records appear on consumer reports after being provided to CRAs by the Courts.

As drafted HB 313 would force CRAs to guess as to whether or not individual records provided to them by the Courts are eligible for inclusion under Maryland law despite clearly being eligible for inclusion under the FCRA. This puts CRAs in an impossible compliance position in relation to law and a completely unfair position in relation to HB 313's private right of action.

Under the law, Courts bear no responsibility for ensuring the records they provide to CRAs are not supposed to be restricted but CRAs bear all of the liability when the Courts provide records in error. The risk only increases given the bill intends to cover records provided to CRAs by non-Maryland courts who have no obligation to comply with Maryland law and may have separate state laws that conflict with HB 313. Even

still, it appears CRAs could still face expensive and time-consuming litigation over lawfully provided records eligible for inclusion in a consumer report.

Unlike CRAs, who receive information from furnishers or directly from public record requests, the Courts should have the most complete, accurate, and up-to-date information regarding any individual case necessary to determine whether or not it should be made available to others. Ultimately, HB 313 places its focus at the wrong step in the process. As a result, it would unleash unintended consequences by making consumer reports less accurate and reliable, creating increased risks for landlords and rental companies that could in turn further drive-up rents as the market is forced to price in risk in other ways.

For these reasons, we respectfully request that the committee reject HB 313 or strike these provisions of concern entirely. If, however, the Committee intends to move HB 313 forward, we would request that the bill be amended to address our concerns by placing the responsibility and liability for suppressing records on the court system, establishing a clear mechanism through which CRAs can clearly identify what records are suppressed, and limiting the scope of the measure to apply solely to Maryland records.

Thank you for your consideration of our comments and please reach out with any additional questions for CDIA.

Sincerely,



Zachary W. Taylor

Director, Government Relations

Consumer Data Industry Association