



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

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

On behalf of the Consumer Data Industry Association (CDIA), I am writing to express our concerns regarding unintended consequences created by the broad provisions and absence of critical exemptions in HB 148, which would establish a prohibition on “surveillance-based pricing setting” in Maryland. The measure could unintentionally restrict the use of consumer reports, conflicting with not only the federal Fair Credit Reporting Act (FCRA) but also provisions of the Maryland’s comprehensive data privacy statute. We respectfully request that should this bill move forward, the Committee adopt amendments to address our concerns and stand ready to work with the sponsor, the Committee, and the bill’s proponents toward that end.

CDIA represents the consumer reporting industry, 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 analytics, our members facilitate fair and secure transactions, foster competition, and expand consumers’ access to tailored financial products. As part of our mission, CDIA promotes responsible data practices to benefit consumers and to help businesses, governments and volunteer organizations avoid fraud and manage risk.

CDIA’s members, the consumer reports they produce, and the users of those reports are all tightly regulated by the federal FCRA. As noted above, businesses in a variety of settings rely on consumer reports to identify, evaluate, and manage the risk inherent in certain financial transactions, both business to consumer and business to business. Consumer reports are the primary way in which credit history information is shared to qualify consumers for credit, but the FCRA governs the limited and controlled release of information for many other purposes, including for insurance underwriting, employment qualification, housing, government benefits, and other personal services.

Beyond regulating the consumer reporting ecosystem, the FCRA also establishes robust consumer protections, including the right to know what information is collected, to know who has accessed consumer information, to know if the information included in a consumer report results in an adverse action, and to correct and delete inaccurate information. Many of these same protections are also already codified in Maryland law.

As drafted, HB 148’s broad definitions of “artificial intelligence”, “automated decision system”, and “surveillance-based price setting” work together to create confusion as to whether users of consumer reports for purposes authorized by the FCRA will have violated HB 148’s prohibition on “surveillance-based price setting”. While this may not be the intent of the bill, it opens the door to significant unintended consequences for all Marylanders as restricting access to consumer reports will make it more difficult for businesses to accurately identify and account for risk, making it more difficult or more expensive to access credit and other products.

CDIA raised similar concerns during the debate over Maryland’s comprehensive data privacy statute, which affords consumers similar rights and protections to those proposed by HB 148. In adopting the comprehensive data privacy law, Maryland incorporated several key exemptions for a variety of types of personal data used in the consumer reporting context to avoid disrupting the cred economy, which depends

on a reliable credit reporting system. The most analogous provision in the data privacy statute, the right to opt out of certain types of data processing, would have functioned similar to HB 148, effectively giving consumers the right to opt of consumer reporting. This in turn would have injected significant financial risks into Maryland's economy. The legislature was wise to address those risks through exemptions focused on the FCRA, among other federal privacy statutes, and we ask the Committee to take the same step now should HB 148 move forward.

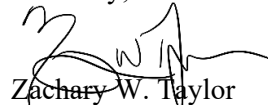
State legislation that attempts to regulate or disrupt the credit reporting system can unleash unexpected and unintended consequences because the system operates across all jurisdictions. Given the ever-increasing interconnectedness of the modern economy, maintaining alignment between state consumer reporting laws and federal consumer reporting laws is more critical than ever.

To preserve this level playing field, Congress included provisions limiting states' ability to independently or differently regulate the consumer reporting system in the FCRA at 15 U.S.C. 1681t. More recently on this topic, the Consumer Financial Protection Bureau (CFPB) published an [interpretive rule in the Federal Register](#) to ***"clarify that the Fair Credit Reporting Act (FCRA) generally preempts State laws that touch on broad areas of credit reporting, consistent with Congress's intent to create national standards for the credit reporting system"***.

CDIA believes only national, uniform standards can achieve the dual goals of protecting consumers and maintaining accurate reports, which is why we respectfully request the Committee adopt amendments to HB 148 exemption consumer reporting from being captured by the measure's prohibition on "surveillance-based price setting". Doing so would not only align the bill with similar proposals making their way through other state legislatures but also eliminate unnecessary conflict between Maryland law and the FCRA, avoiding legal uncertainty for CDIA's members and the businesses that rely on consumer reports to identify and manage risk.

CDIA and its members stand ready to work with the sponsor, the Committee, and other interested parties toward that goal. Thank you for your consideration of our comments. Please reach out with any additional questions for CDIA.

Sincerely,



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