



Consumer Data Industry Association  
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Senator William C. Smith, Jr.  
Chair  
Senate Judicial Proceedings Committee  
Maryland Senate  
2 East Miller Senate Office Building  
Annapolis, Maryland 21401

Chair Smith, Vice Chair Waldstreicher, 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 are incongruous with the consumer reporting ecosystem. We are appreciative of the sponsors' willingness to consider our concerns and collaborate on potential solutions. For the reasons outlined below, we respectfully request the committee adopt the proposed amendments to 8-222 (E)(1)(ii) and (E)(1)(iii) of HB313 to alleviate conflicts between this bill, 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.

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.

As drafted, HB 313 places CRAs in an impossible compliance position, asking them to guess whether a given record provided to them by the court is eligible for inclusion and if the record does not include disposition or outcome information, guess what it might be. In either event, CRAs could find themselves subject to the private right of action should they be wrong. This is unfair since these records are provided to CRAs by the Courts themselves who are responsible for shielding records eligible for protection and updating records to reflect their current status or outcome.

Under current statute and the proposed changes in HB 313, there are no clear requirements for Courts to ensure that shielded records are not made available, no clear requirements for Courts to ensure up-to-date disposition and outcome information, and no clear pathway by which CRAs could easily confirm the status of records.

However, CRAs bear all of the legal liability when records are provided in error but included in a consumer report in compliance with the federal Fair Credit Reporting Act (FCRA). 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.

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. While CDIA understands the intent of HB 313 to ensure accurate reports, we believe the function of the measure focuses at the wrong step in the process. Thankfully, those concerns can be addressed through simple amendments to (E)(1)(ii) and (E)(1)(iii) of the bill.

Without these changes, HB 313 introduces significant uncertainty into the consumer reporting system and tenant screening practices. It could lead to less complete, less accurate, and less reliable consumer reports, creating the impression of greater risk to landlords and rental companies where none exists. This in turn could harm consumers as the market adjusts to price in risk related to insufficient tenant screening. For these reasons, we respectfully request that the committee amend HB 313 as proposed.

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

Sincerely,

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

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