



May 14, 2019

**House Bill No. 38 – “Provide credit report to businesses/allow businesses to dispute”**

Chairman Jordan, Vice-Chairman Hillyer, Ranking Member Representative Crossman and members of the House Financial Institutions committee thank you for the opportunity to submit testimony at today’s hearing. I am Michael Carone, Manager of Government Relations, of the Consumer Data Industry Association (CDIA).

The Consumer Data Industry Association (CDIA) is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers’ access to financial and other products suited to their unique needs

My testimony today concerns House Bill 38, which would define new terms, require commercial credit reporting agencies to provide a free commercial credit report to businesses upon request, mandate that the agencies identify the source of information in the reports, create a process for a business to dispute the accuracy of information in the report, and provide a civil action against an agency with damages, statutory penalties, fees and more.

CDIA respectfully opposes this bill for several reasons. CDIA and its members that participate in the commercial credit reporting area have not heard of any issues that would create the need for this type of legislation. Under existing practices, businesses now can obtain commercial credit reports and request that errors in those reports be corrected. Commercial credit report providers already have a dispute process. The providers of commercial credit reports aim to have accurate information in the reports. Moreover, their customers demand it. For this reason, the providers have procedures in place to allow for businesses to dispute inaccurate information.

The legislation is unnecessary and it could also be disruptive to commercial lending in Ohio as well. The term “negative information” is subjective. The bill would require the disclosure of the source, date and specific amount of negative information. The term “negative information” is subjective and could include information that may not have a material impact on a lending decision. Information is negative or positive depending on the other contents of the credit report and the creditor’s criteria.

Business credit might tighten and become more expensive. Unlike personal credit reports, which are regulated and can be viewed only pursuant to the permissible purposes of the federal Fair Credit Reporting Act, commercial credit reports are available to the public. This means that anyone — including potential lenders, suppliers, and competitors — can openly view a business’s credit report. As a result, creditors’ names are not listed on commercial credit reports because it would provide a competitive disadvantage and discourage the reporting of business credit information. Less information would make it more difficult for lenders to access credit risk, causing reduced lending and more expensive credit.

The bill would encourage frivolous litigation. The requirement in subsection (C) to delete information in a report unless its accuracy has been “verified” will almost certainly be a source of constant litigation because it is unclear what would be sufficient to verify accuracy. The bill defines “loss” broadly to include reputational injury in addition to economic damages. Subsection (D) of the bill allows a “person or entity,” rather than a business, to initiate a civil action against the provider of the commercial credit report to recover actual damages or statutory damages of \$500 or \$1,000, damages in an individual capacity or in a class action, attorney’s fees and court costs. Subsection (E) of the bill creates a process for a “cure offer” that a plaintiff may accept with also a “minimum additional amount” of \$500 to \$4,000. The enforcement provisions create an incentive for litigation even when the reports contain accurate information.

The bill would regulate activities outside of Ohio. The bill defines a “subject” of a commercial credit report as a business operating in this state, but it does not restrict the action, harm, or damages to those occurring within Ohio or related in any way to Ohio. A business that operates in Ohio could request a free credit report or sue for actions that took place outside the state.

In conclusion, we believe there are several reasons that this legislation is unnecessary. The industry already provides existing methods to solve the concerns this legislation seeks to aide and it creates the possibility for some unintended and negative consequences for Ohio business. For these reasons above, we stand in opposition to House Bill 38. Thank you for the consideration of our comments and please feel free to contact us with any questions you may have.

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