



June 4, 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).¹

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.

While we understand that House Bill 38 is intended to help small businesses, if this bill were enacted, its effect would be to limit access to credit for small businesses. Specifically, this bill would result in a reduction of the information available to lenders who want to extend credit to small business. Less information would make it harder for lenders to judge their risk in lending to small businesses, which would result in less credit, higher costs, or some combination of the two. It is for this and the following reasons that CDIA and its commercial credit reporting agency members respectfully oppose this legislation.

We understand that in previous hearings issues were raised about some instances where small businesses experienced problems in the commercial credit reporting area; however, the complaints fundamentally relate to the marketing of products and services. These are issues that do not demand legislation to require the disclosure of a report or to create a dispute process. Under existing practices, businesses can obtain the commercial credit reports about themselves and they can request that errors in those reports be corrected through a

¹ 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.

dispute process. The providers of commercial credit reports aim to have accurate information in the reports because their customers demand it. For this reason, the providers have procedures in place to allow for businesses to dispute inaccurate information. CDIA members, Experian and Equifax, have information readily available on their websites that explain this process in detail as well.

However, House Bill 38 would go further and require the disclosure of the specific information on the source, date and amount. Such information is not always included in commercial credit reports because unlike personal credit reports, 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. Creditors' names are not listed on commercial credit reports because it would provide a competitive disadvantage and discourage the reporting of business credit information. The likely consequence of the mandatory disclosure requirement would be the reduction of creditors who are willing to furnish information for commercial reports and less information in the reports. If less information is being reported, it will make it more difficult for lenders to assess credit risk. If lenders decide to build in this new added risk, it could cause reduced lending, a tighter credit market and make credit more expensive.

Critically, House Bill 38 would encourage litigation and regulate activities outside of Ohio based on several problematic definitions. The requirement to delete information in a report unless its accuracy has been “verified” will almost certainly be a source of constant litigation. It is unclear what would be sufficient to verify accuracy. The bill defines “loss” broadly to include reputational injury in addition to economic damages. The bill defines a “subject” of a commercial credit report as a business operating in this state, but it does not restrict the action to occurring within Ohio. The enforcement provisions create an incentive for litigation even when information is completely accurate. More litigation will make the reporting of business credit information more costly and more challenging and therefore less available. Additionally, 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 that this legislation is unnecessary and could make it more difficult for small businesses in Ohio to access credit. CDIA members have already provided methods to address the concerns that this legislation seeks to address. This bill creates the possibility for unintended and negative consequences for Ohio business. For these reasons, 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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