

Testimony in support of HB 38
Before the House Financial Institutions Committee
Offered by Jack Landskroner/Drew Legando
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Intro:

Good morning, Chairman Jordan, Vice Chairman Hillyer, Ranking Member Smith, Members of the Committee,

I appreciate the opportunity to give testimony on HB 38, which will serve to provide needed protections to small businesses across the state of Ohio and to provide transparency in commercial credit reporting where it does not presently exist for Ohio businesses.

My name is Jack Landskroner. I am an attorney by trade, and in that regard, proud to be speaking on behalf of my colleagues with the Ohio Association for Justice. I am a native of Ohio and a resident of Cuyahoga County. I am married and a proud father of four.

I want to thank the sponsor of the Bill: Vice Chair Hillyer and Co-sponsor representatives Cross, Hood, Miller, Riedel and Weinstein for taking action on this important issue.

Background:

As a small business owner, my interest in this legislation is both personal and professional. Small business plays a crucial role in the growth of Ohio's economy. It is built on ingenuity, hard work, and the willingness of business owners to put themselves on the line to pursue a belief in their process, product, or concept,... or in providing a service which can grow their business, create jobs, improve our communities, and enhance our economy. That opportunity can be stalled overnight when a business's reputation is tarnished by false and incorrect reports about that business's credit worthiness. Access to credit is the lifeblood of small businesses and inaccurate or false information on a credit report has the ability to immediately undermine a business's ability to compete in the marketplace, no less to conduct day to day operations.

In Ohio, according to a 2018 report from the Small Business Administration Office of Advocacy: 99.6 % of businesses in the state qualify as small businesses constituting just under 1M companies that employ 2.2 million people and 46% of the workforce in Ohio.

The Importance of Accurate and Transparent Credit Reporting:

As an attorney I have had the privilege of representing a number of small businesses in Ohio and across the country whose companies have suffered harm when their reputations were sullied by misleading information published on their company's commercial credit reports. Unfortunately, these business owners learned that it was virtually impossible for them to correct these errors through their own diligence. Instead, these businesses were offered a service, sold by the credit reporting agencies, at great cost, to allow them to monitor their own credit reports, help them correct the errors on their reports, and improve their credit scores.

To be clear.... the very same companies that assign the credit scores for small businesses and publish false or inaccurate information on the businesses' credit reports...are the same companies offering to correct credit reports they manufacture and to help improve the credit scores they create, for a paid fee.

In essence, this practice is equivalent to lighting someone's house on fire and then offering to sell them a fire hose to put out the fire. Ohio businesses should not have their reputations held hostage and then be required to pay ransom to be assured that their credit reputation is accurate.

Every small business owner knows that a negative rating from a commercial credit reporting agency is one of the greatest threats to the survival of their small business. As it stands, unlike in consumer credit reporting where full disclosure is required, there is no legal requirement for any commercial credit reporting agency to disclose the name of the company providing the negative credit information about a subject business or the specific amounts or dates of the alleged negative credit or payment history. In fact, as a matter of commercial industry practice, commercial credit reporting agencies absolutely refuse to provide this information to the businesses they report on who are the subject of these negative reports.

H.B. 38 as a Solution:

HB 38 addresses this concern and makes accurate and transparent credit reporting a priority, which serves to benefit every Ohio business. The impact of misleading information about a business's credit reputation is immediate. Credit scores are downgraded, access to credit dries up and the cost of securing access to credit skyrockets, insurance premiums increase, and the reputation of a business entity is immediately called into question. When a business is viewed as a higher risk, fewer people desire to do business with them, fewer institutions will lend to them, and they will pay more in interest on funds they borrow to help run their business.

Over the past few years, my law office has been contacted by many Ohio businesses, as well as more than a thousand businesses from across the country, concerned about the lack of transparency in commercial credit reporting and expressing the opinion that they feel they are being extorted to buy a commercial credit monitoring service from the credit reporting agencies in order to prevent the agencies from publishing false credit reports about their businesses.

As an example: I have heard from an Ohio company based in Medina that has been in business since 1986. They manufacture dies and perform metal stampings. This company received a report from the credit reporting agency that indicated it had negative payment experiences on its credit report which had lowered its credit score and demonstrated the company as under the "highest risk of financial stress." This was demonstrably false. The reports included two alleged unidentified suppliers of the company that reported the company had made late payments. The president of the company attempted to dispute the report with the credit reporting agency as being false, noting it had been included on the company's credit record. The owner demanded to be informed who had made these reports to the reporting agency, however the credit reporting agency refused to disclose the identity of the company reporting the fictitious or inaccurate account of late payments. Despite the stamping company's dispute of the negative reports, the credit reporting agency re-published the same misleading information on the company's credit report over and over without regard for the veracity of the information agency was reporting. Thereafter, in response to the voiced concerns of the small business about how this could happen, the credit reporting agency offered their solution to fix the harmful negative reports that were affecting their credit scores and reputation: buy the credit reporting agency's credit monitoring service for thousands of dollars a year.

As another example, I have been contacted by the owner of a small steel company from Swanton, Ohio. On 3 separate occasions, the owner found inaccurate reports of slow pay or (late payments) published on his credit history in the company's commercial credit report. In each case, the company disputed the veracity of the information, nonetheless the company's credit score dropped and its business reputation was harmed. Adding insult to injury, the owner later learned the resulting drop in credit score cost his company a meaningful business opportunity.

No Protections for Small Business:

Consumers are provided extensive rights under legislation which requires both transparency and accuracy in credit reporting, and yet small business are afforded no such protections under

the law. The Consumer Fair Credit Reporting Act expressly requires credit reporting agencies to:

- Tell you if information in your file has been used against you
- Upon request, to provide all the information about you in the files of the consumer reporting agency
- Only to report accurate, complete, and verifiable information
- To affirmatively investigate disputed information
- To correct or delete inaccurate incomplete or unverifiable information
- Not to report outdated negative information
- To Disclose who has requested access to an individual's credit report in the prior year

Ironically, unlike the protections afforded to consumers in credit reporting, under the Fair Credit Reporting Act, small businesses do not have any secured legal rights to protect themselves from false and misleading information being reported on their credit reports by third parties or credit reporting agencies.

HB 38 will provide small businesses with transparency in commercial credit reporting. Specifically, this bill mandates the identification of the source of negative reports, as well as the date and amount of the transaction. The passage of this bill will require investigation of disputed information and promote veracity in credit reporting. And....It will help to allow businesses to resolve discrepancies in information reported to credit agencies with their own vendors and business partners without the influence or interference of a commercial credit reporting agency or any other private interests which seek to pursue unwarranted profit on the backs of small business.

I greatly appreciate the time extended to me by this Committee. I am hopeful you'll agree HB 38 is a necessary protection for all of Ohio's small businesses and that together we can move forward to provide Ohio businesses with fair Commercial Credit Reporting.

I am happy to answer any questions.