

December 10, 2019

The Honorable Maxine Waters
Chairwoman
House Committee on Financial Services
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
House Committee on Financial Services
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

The American Bankers Association writes to express our concerns for recently introduced legislation, H.R. 5332, the Protecting Your Credit Score Act of 2019 being considered before the Committee this week.

Credit reports are the foundation of this country's robust, competitive consumer credit market. They allow consumers to choose from thousands of lenders across the country with whom they have no history or relationship and obtain a loan that meets their needs at competitive price, all because lenders have access to information about a borrower's credit history. That information is critical for lenders to evaluate the applicant's ability to repay and to make fair and appropriate credit decisions.

We share Representative Gottheimer's interest in ensuring that credit reports are complete and accurate. However, we are concerned that this legislation will undermine rather than enhance the value of the reports. Though the legislation is well-intended, we believe it will make credit reports less predictive and useful by promoting the elimination of negative but accurate information that will weaken the underwriting process, increase borrower's costs, and reduce people's ability to get loans. In addition, allowing courts to award injunctive relief will promote questionable lawsuits and replace the current single-interpretation regime with inconsistent interpretations that vary across the country. Finally, we believe that some provisions are duplicative, unnecessary, and burdensome.

The Fair Credit Reporting Act (FCRA) currently provides consumers strong dispute rights to challenge the accuracy of information in their reports — rights that are enforced through supervision, government agency enforcement actions, and civil lawsuits. Consumers may submit claims to either the consumer reporting agency or directly to the furnisher of the information. Disputes must be investigated and resolved promptly. If not, the information is deleted. Thus, consumers have ample legal means to challenge the accuracy of information in their credit reports.

We are concerned about the increasing abuse of these protective provisions to remove accurate but negative information, not only by credit repair organizations and those hoping to erase accurate negative information from their report to improve their ability to obtain credit, but also by individuals, including those involved in organized crime, seeking to defraud lenders.

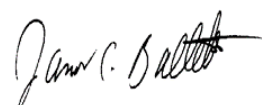
We believe that H.R. 5332 will enhance the ability of these individuals to flood consumer reporting agencies and furnishers of information with false claims of inaccuracies that must be resolved in a timely fashion or deleted. For example, under the bill, furnishers and credit reporting agencies will have to re-investigate frivolous disputes if claimants simply assert that they are providing “new” or “additional” information. Other provisions promote false claims and impose new burdens that will overwhelm consumer reporting agencies or furnishers, leading to the inappropriate deletion of accurate information.

The resulting degradation of the reports will reduce the ability of lenders to evaluate an applicant’s creditworthiness and ability to repay, which in turn will increase what consumers pay for credit and make it harder for many consumers, especially the underserved, to get credit. Banks will also be compelled to find alternatives to credit reports in order to continue lending and to meet bank regulators’ underwriting standards and expectations.

The bill will further undermine the consumer reporting system by expanding private rights of action against users of credit reports and by creating uncertainty about how banks and others can comply with the FCRA. Allowing courts to award injunctive relief means that multiple courts can interpret this complicated statute differently from the Consumer Financial Protection Bureau, the primary agency tasked with interpreting and enforcing FCRA. The result will be a patchwork of inconsistent interpretations, uncertainty about how to comply, and lawsuits of questionable merit.

While we appreciate Representative Gottheimer’s efforts and welcome discussion on these and other provisions in the bill, we must at this time oppose the bill in its current form.

Sincerely,



James C. Ballentine

cc: Members of the House Committee on Financial Services