



**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

INDUSTRY NOTICE

REGULATORY GUIDANCE



August 27, 2024

Two New Laws Prohibit Reporting on Certain Criminal Records and Limit Use of Expired Information in Consumer Credit Reports

The Office of Financial Regulation (OFR) provides this guidance to help consumer reporting companies understand two legislative changes that protect criminal record history and limit the use of older information in consumer reports. The first new law, [HB 622](#), restricts the types of criminal background information that companies may post to consumer reports, and the second, [SB 41](#), limits the existing exceptions to when businesses may consider information that normally disappears from a credit report over time. Both laws are effective on October 1, 2024.

What do the new laws prohibit from appearing on a consumer report?

HB 622 prohibits a consumer report from including any criminal charge where the consumer was falsely accused, acquitted or exonerated; received a *nolle prosequi*; was not found guilty nor pled guilty; or that was later expunged. For additional issues related to this topic, please see: [FAQs for the Consumer Reporting Law](#).

SB 41 raised a dollar threshold related to specific exceptions allowing a business to consider information that otherwise disappears from a consumer credit report. Negative information typically disappears from consumer reports after either seven or ten years. Current law specifically disallows businesses to consider bankruptcy discharges after ten years, or civil suits and judgments, tax liens, charged-off accounts, and any other adverse item after seven years, unless a consumer applied for a loan or insurance policy of \$50,000 or more or employment of \$20,000 or more.

Under the revised law, the otherwise-expired information may only be revealed through a consumer report if the consumer applies for a loan or insurance policy over \$150,000 or a job that pays more than \$70,000 per year. This change limits the circumstances under which the exceptions may be considered in consumer credit decisions.

What are the penalties?

Any violation of the law is considered an Unfair, Abusive, Deceptive Trade Practice as defined in Md. Code Ann., Fin. Inst. § 2-113.1 as well as a violation of FI § 14-1226 and carries the penalties outlined in Md. Code Ann., Com. Law § 14-1226 (b)(1) which include potential fines of up to \$10,000 for the first violation and \$25,000 for each subsequent violation.

Contact

For questions about this advisory, please contact Assistant Commissioner Shereefat Balogun of the Office of Financial Regulation at 410-230-6390, or by email at shereefat.balogun@maryland.gov.

The Office of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at www.labor.maryland.gov/finance.



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FAQS FOR THE CONSUMER REPORTING LAW

1. Is a Consumer Report different from a Credit Report?

Yes. A credit report is one type of consumer report:

- A consumer report is a report that includes more than financial information. It includes items that might reflect on a person's character, reputation, or mode of living as well as their credit worthiness.
- A consumer report is used for more than a lender deciding whether to make a loan to a consumer. It is also used by employers, landlords, insurance companies, and even governments.

2. Does the law limit what can go on a consumer report?

Yes. A criminal matter must be removed if:

- The consumer was falsely accused, acquitted or exonerated.
- A nolle prosequi was entered, meaning the prosecutor will no longer pursue the case.
- The consumer was not found guilty or did not enter a guilty plea.
- The record has been expunged.

3. What happens if the consumer pled guilty but the judge entered a probation before judgment (PBJ)?

OFR believes that the law is intended to follow the determination of the Court.

- In the example above, a consumer reporting agency should proceed as if no guilty plea was entered and the matter must be removed from the consumer's report.
- A similar analysis would also apply when a judge places a case on the "Stet" docket as that is not a guilty determination.

4. What about cases on appeal or a case with an Alford plea?

OFR believes that the law is intended to follow the determination of the Court.

- A finding of guilt can remain on the record while the appeal is pending but must be removed once it is overturned on appeal.
- With an Alford plea, a consumer is maintaining their innocence, but agreeing the State has enough evidence to convict them. The determination by the judge would determine whether the case could go on a consumer report.

5. What happens when a consumer pled guilty to a crime, but later had the case expunged or received a pardon?

- The case can remain on the record until it is expunged or pardoned.
- Cases that have been expunged or pardoned must be removed from the consumer's report when they are expunged or pardoned (for example: [Governor Moore's June 17, 2024 Executive Clemency Order](#) pardoning certain Maryland convictions related to the simple possession of cannabis).

