



Testimony before the
U.S. HOUSE OF REPRESENTATIVE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

regarding

“Promoting Access to Credit for Everyday Americans”

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Introduction and Summary

Mr. Chairman, Ranking Member Foster, and Members of the Subcommittee, thank you for inviting me to testify today regarding the four bills being considered at this hearing. I offer my testimony here on behalf of the low-income clients of the National Consumer Law Center.¹ We oppose each of the following bills being discussed at this hearing. They are a potpourri of giveaways and boondoggles to the Big Three credit bureaus, the single most complained about industry in financial services, with 5 million complaints to the Consumer Financial Protection Bureau (CFPB) in 2025 alone. Several of these bills are Trojan horses, touted as helping consumers but actually benefiting industry while harming everyday people.

H.R. 5775, the FCRA Liability Harmonization Act, would dramatically reduce accountability for credit bureaus and other companies, including when they wrongfully label innocent consumers as bad borrowers or criminals. The bill eliminates punitive damages under the Fair Credit Reporting Act (FCRA), no matter how egregious the violation. It caps both statutory damages and actual damages for class actions to \$500,000, no matter how many thousands or millions of consumers harmed or the extent of their losses caused by illegal conduct. It also caps attorney's fees, no matter how complicated the case or obstructionist the defense counsel, gutting the fee shifting nature of the Act, an essential part of the Act's enforcement/ accountability framework.

H.R. 5402, the Credit Access and Inclusion Act, is touted as helping consumers build credit by including rent and utility payment history, but in reality it overrides state and other federal laws that give consumers control over their personal information and harms consumers struggling to afford high utility bills or obtain affordable rental housing.

H.R. 8141, the Fair Credit Reporting Reseller Accuracy Act, purports to impose new accuracy standards on resellers, but it actually instead gives these companies a free pass from liability. Resellers would be off the hook for errors if they conveyed information unaltered from another company, even if the inaccuracy was obvious on its face, such as facially illogical or contradictory information, or the other company has a history of problems. Many resellers are multi-billion dollar companies (some owned by private equity), with more than adequate resources for compliance.

H.R. 7588, the Eliminating Fraud in the CFPB's Complaint Database Act, would deliberately sabotage and undermine the CFPB's ability to help consumers through its consumer response unit. It reduces the transparency of the CFPB's complaint database by removing complaint narratives even when the consumer wants to share them, hinders consumers' ability to seek third party assistance in filing complaints, requires consumers

¹ The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damage wrought by consumer abuses from every part of the nation. It is from this vantage point that we supply these comments. This testimony was written by Chi Chi Wu, with assistance from Diane Thompson and graphics by Ella Halpine.

to first contact the company and to wait 60 days before they can file a complaint, and allows companies unbridled discretion to reject complaints.

Incorrect information on a credit report, whether caused by errors or identity theft, can be devastating, costing families thousands of dollars in higher interest rates or denying access to loans altogether. It can prevent people from becoming homeowners, buying cars, or opening small businesses. It can also cost people a job opportunity, insurance, or an apartment rental. In a time when consumers are struggling already with the affordability of everyday expenses, the Congress should be helping consumers address credit reporting problems, not caving to the industry's wish list to shield them from liability and prevent people from complaining about them in the first place.

A. H.R. 5775, the "FCRA Liability Harmonization Act," would dramatically reduce accountability for credit bureaus and other companies

H.R. 5775 drastically decreases the consequences for credit bureaus, employment background check agencies, tenant screeners and other "consumer reporting agencies" (CRAs) when they violate the FCRA, including when they falsely claim that consumers have failed to pay their bills or have criminal records. The bill would eliminate punitive damages, both in class actions and in individual cases, for willful violations of the FCRA, no matter how egregious the conduct. It would impose an arbitrary, one-size-fits-all cap on both statutory damages *and actual damages* for class actions to \$500,000, no matter how many thousands or millions of consumers were harmed or the extent of their losses caused by the illegal conduct.

H.R. 5775 radically reduces accountability for the most serious violations that these Big Data companies commit. It also does the same for the banks, lenders, and debt collectors when they supply false information to these companies and then fail to correct it. Being falsely accused of skipping bills or committing a crime is not only upsetting and distressing, it can deprive individuals of their ability to access credit, employment, rental housing and more.

Notably, this bill is a giveaway to one of the most problematic sectors in the financial services industry. The three major credit bureaus (Equifax, Experian and TransUnion) and other CRAs have been by far the most complained-about companies to the CFPB for many years, with an eye-popping number of complaints against them for the past few years:

- 2022: 978,000 complaints²
- 2023: 1.3 million complaints.³
- 2024: 2.7 million complaints⁴
- 2025: 5.8 million complaints!⁵

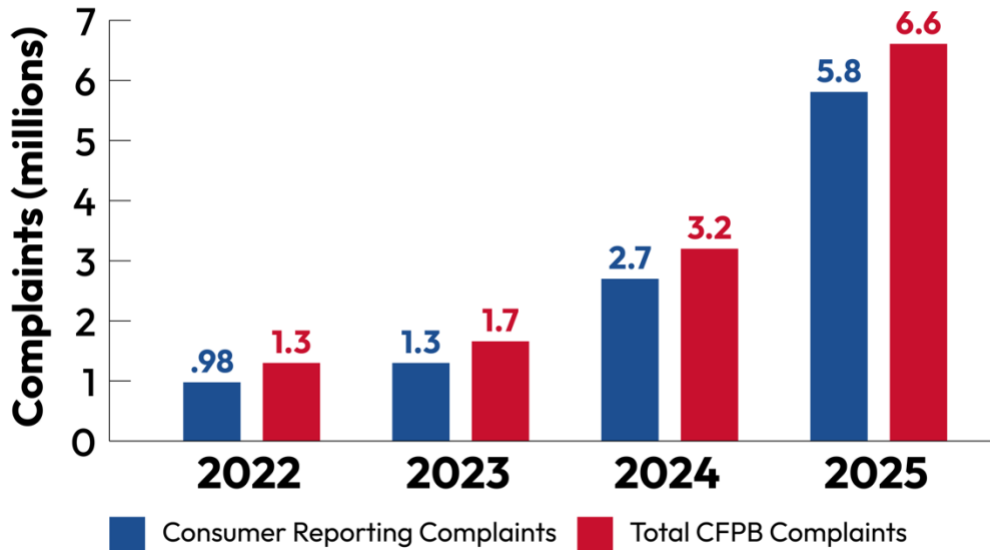
² CFPB, Consumer Response Annual Report January 1–December 31, 2022 3, 11 (Mar. 2023), <https://www.consumerfinance.gov/data-research/research-reports/2022-consumer-response-annual-report/>.

³ CFPB, Consumer Response Annual Report January 1-December 31, 2023, at 11, 19 (Mar. 2024), https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2023-03.pdf.

⁴ CFPB, Consumer Response Annual Report January 1-December 31, 2024, at 3, 11 (May 2025), https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2025-05.pdf.

⁵ CFPB, Consumer Response Annual Report January 1-December 31, 2025, at 7 (March 2026), <https://www.consumerfinance.gov/data-research/research-reports/2025-consumer-response-annual-report/>.

As this chart shows, consumer reporting complaints make up the vast majority of complaints to the CFPB.



This massive volume of complaints is unsurprising given what we know of the credit bureaus' dysfunction. As the Federal Trade Commission found, 1 in 5 of consumers (or over 40 million) had verified errors in their credit reports, with 1 in 20 (or over 10 million) having errors so serious they would be rejected for credit or need to pay more.⁶ More recent studies by Consumer Reports in 2021⁷ and 2024⁸ show similar percentages. These high error levels are the result of deep, profound, and longstanding problems in the credit reporting system, such as:

- Consumers having their credit files “mixed” with the wrong person.
- Negative information that remains even after court judgments or legal settlements declare that a consumer doesn't owe a debt.
- The after-effects of identity theft when credit bureaus and creditors don't believe the victim.
- Consumers being labeled as dead when they are alive and breathing.

⁶ Fed. Trade Comm'n, Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (Dec. 2012), www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf.

⁷ Syed Ejaz, Consumer Reports, A Broken System: How the Credit Reporting System Fails Consumers and What to Do About It (2021) <https://advocacy.consumerreports.org/wp-content/uploads/2021/06/A-Broken-System-How-the-Credit-Reporting-System-Fails-Consumers-and-What-to-Do-About-It.pdf>.

⁸ Lisa L. Gill, Consumer Reports, More Than a Quarter of People Find Serious Mistakes in Their Credit Reports, Study Shows (April 30, 2024), <https://www.consumerreports.org/money/credit-scores-reports/serious-mistakes-found-in-credit-reports-a1061511185/>.

- Errors by the creditors and debt collectors who supply information to the credit bureaus, *i.e.*, “furnishers.”⁹

The dispute system that is supposed to serve as a safety net to fix errors is an automated travesty, with the Big Three credit bureaus and some furnishers conducting pro forma, perfunctory investigations. Credit bureaus automatically defer to what a furnisher tells them, like a judge who always rules for the defendant.¹⁰

Credit bureaus, employment background check agencies, tenant screeners, big banks, and debt collectors inflict real and serious harm on people when they report inaccurate information. Consumers lose jobs, are shut out of housing, cannot access much-needed credit, and suffer severe distress. Flagrant and outrageous conduct by the industry can lead to punitive damages, and it should. For example:

- In *Taylor v. Equifax*, Equifax mixed the credit report of plaintiff David Anthony Taylor with David Allan Taylor, despite a different social security number and date of birth, with devastating results for David Anthony Taylor. Taylor, a veteran, had put his house on the market after having been preapproved for a VA home mortgage and found a new home. But he was unable to close on his new home, because Equifax had added numerous negative accounts from David Allen Taylor. David Anthony Taylor disputed the inaccurate information several times over the course of six months but Equifax failed to fix its mistakes. Unable to close on his new home, and having sold his old home, Taylor had nowhere to live and could not find an apartment that would accept his pit bulls. Taylor ultimately spent months in a motel, was forced to kennel board and re-home a number of his dogs, and even had to put two dogs to sleep because he could not find somewhere to re-home them.¹¹
- In *Cornelius v. Samba Security*, an Uber driver had her account deactivated because a background check CRA falsely reported that her driver’s license had been withdrawn. Cornelius disputed this inaccurate reporting twice, including a copy of her valid driver’s license, but SambaSafety failed to correct it. In conducting its alleged investigation, SambaSafety failed to even contact the state Department of Motor Vehicles. SambaSafety’s incompetence resulted in Cornelius losing 13 months of income, including approximately \$7,000 per month during the height of Alaska’s summer tourist season. A jury awarded Cornelius both actual damages and punitive damages for Samba Security’s failure to correct an obvious error that was easily fixable.¹²

⁹ Chi Chi Wu, Michael Best & Sarah Mancini, NCLC, Automated Injustice Redux: Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors (Feb. 25, 2019), <https://bit.ly/ajustre>. See also Consumer Credit Reporting: Assessing Accuracy and Compliance: Hearing Before the Subcomm. on Oversight and Investigations of the H. Comm. on Financial Servs., 117th Cong. (2021) (statement of Chi Chi Wu), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-WuC-20210526.pdf>.

¹⁰ *Id.*

¹¹ Amended Complaint, *Taylor v. Equifax Info. Serv.*, Case No. 8:23-cv-00860 (M.D. Fla. March 18, 2024), <https://storage.courtlistener.com/recap/gov.uscourts.flmd.413266/gov.uscourts.flmd.413266.46.0.pdf>

¹² Complaint, *Cornelius v. Safety Holdings, Inc.*, Civ. No. 24-0811 (D.N.M. Aug. 14, 2024), https://storage.courtlistener.com/recap/gov.uscourts.nmd.505497/gov.uscourts.nmd.505497.1.0_1.pdf.

- In *Cayler v. TransUnion Rental Screening Solutions, Inc.*, a subsidiary of TransUnion issued an inaccurate tenant screening report falsely claiming that Cayler was convicted of “Indecency with a Child Sexual Contact” and “Indecency with a Child by Contact.” The potential landlord rejected his rental application, only relenting after the plaintiff explained the situation directly and requiring him to pay six months rent in advance, totaling over \$18,000. Cayler was understandably deeply distressed by TransUnion's false labeling of him as a child sex offender and his having to prove his innocence to a prospective landlord.¹³

Additional examples of harm from inaccurate information are in Attachment A and in NCLC’s testimony from September 2017 on the previous version of this bill.¹⁴

H.R. 5775 would deny all of these consumers the ability to seek full accountability for the outrageous violations of the FCRA that affected their lives. The bill restricts the remedies for consumers without sound or logical justification.

In addition to eliminating punitive damages and capping class action damages at \$500,000, the bill limits attorney’s fees to the lesser of 40% of the damages recovery or \$100,000. This cap would apply no matter how complicated the case, including class actions involving millions of class members such as the Equifax data breach.¹⁵ It would decimate the fee-shifting nature of the FCRA, devastating the ability of injured consumers to seek legal assistance. And it would give enormous incentive for industry attorneys to obstruct, delay, and drag out litigation, knowing that consumer attorneys would have their fees capped no matter how badly industry attorneys behaved. H.R. 5775 purports to merely “harmonize” the FCRA with other consumer laws, but no other consumer law limits attorney’s fees in this manner or caps actual damages in class actions to \$500,000.

B. H.R. 5402, the Credit Access and Inclusion Act, is a Disguised Preemption Bill

H.R. 5402, the Credit Access and Inclusion Act is touted as a bill to help consumers build credit by including rent and utility payment history, but it is in reality a preemption bill. There is no need to amend the FCRA to allow for the reporting of either utility or rent payment data, since the Act does not include any restrictions against such reporting. The intended effect of the bill is

¹³ *Cayler v. TransUnion Rental Screening Solutions, Inc.*, Case. No. 8:23-cv-01170 (M.D. Fla. May 26, 2023), <https://storage.courtlistener.com/recap/gov.uscourts.flmd.414573/gov.uscourts.flmd.414573.1.0.pdf>

¹⁴ Legislative Proposals for a More Efficient Federal Financial Regulatory Regime: Hearing Before the Subcomm. on Fin. Inst. and Consumer Credit of the H. Comm. on Financial Servs., 115th Cong. (2017) (statement of Chi Chi Wu), <https://financialservices.house.gov/uploadedfiles/hhr-115-ba15-wstate-ccwu-20170907.pdf>.

¹⁵ The Equifax data breach, where hackers stole the private personal information of 147 million Americans due to that company’s lax security measures, resulted in a \$380.5 million settlement for injured consumers. Peter Hayes, Equifax to Pay \$380.5 Million to Settle Data Breach Class Claims, Bloomberg News, Jan. 14, 2020, <https://news.bloomberglaw.com/product-liability-and-toxics-law/equifax-to-pay-380-5-million-to-settle-data-breach-class-claims>. Ironically, the last time that a bill called the “FCRA Liability Harmonization Act,” was discussed in this Subcommittee was at a September 7, 2017 hearing – the same day that the Equifax data breach was publicly revealed.

to override state and other federal laws that protect the privacy and economic interests of consumers, especially those struggling to afford high utility bills or obtain affordable rental housing.

H.R. 5402 would preempt state laws that require consumer consent before a utility company can share information about that consumer's payment information to a credit bureau or other consumer reporting agency. This includes state privacy protections in California,¹⁶ New Jersey,¹⁷ Washington State,¹⁸ Wisconsin,¹⁹ and potentially other state laws.²⁰

H.R. 5402 would also prevent states from regulating landlords, debt collectors, court systems, and others when they report payment information (including potentially evictions based on nonpayment) about a tenant to credit bureaus or tenant screening agencies. Thus, it could override state laws that prohibit court systems from sharing sealed or expunged eviction records based on nonpayment of rent to tenant screening companies.²¹ It could ironically even preempt state laws adopted to require landlords to offer the option of reporting positive-only rental payment information.²²

In addition to preempting privacy provisions, H.R. 5402 undermines other state utility consumer protections. For example, in Massachusetts, utilities are prohibited from terminating service in low-income households where occupants are elderly or disabled.²³ Full file utility credit reporting would mean that these households would have black marks on their credit reports, and possibly other negative consequences such as increased rent or increased difficulties obtaining rental housing, which would deter them from relying on these state-provided protections and causing them great financial distress in months with high utility bills. The National Association of State Utility Consumer Advocates has voted to oppose full file utility credit reporting²⁴ in part for because it conflicts with utility consumer protections in many states.

¹⁶ Cal. Pub. Util. Code § 2891 (prohibiting telephone company from sharing customer's financial information without customer's consent).

¹⁷ N.J. Stat. Ann. § 48:3-85(b)(1) (prohibiting electric or gas utility disclosure, sale or transfer of customer's proprietary information, including, but not limited to, customer's name, address, telephone number, energy usage, and electric power payment history, to a third party without the consent of the customer).

¹⁸ Rev. Code Wash. § 19.29A.100 (privacy protections for electric utility customers).

¹⁹ Wis. Stat. § 196.137 (prohibiting municipal utilities from releasing "customer information" without the customer's consent except in specific situations).

²⁰ *See generally*, State & Local Energy Efficiency Action Network, A Regulator's Privacy Guide to Third-Party Data Access for Energy Efficiency, December 2012, p.7 (Table 2), *available at* https://www4.eere.energy.gov/seeaction/system/files/documents/cib_regulator_privacy_guide_0.pdf.

²¹ *See, e.g.*, Ariz. Rev. Stat. Ann. § 33-1379(C)(3)(prohibiting courts selling or releasing sealed eviction cases "as a part of a bulk or individual records transfer to a third party"); Cal. Code of Civ. Pro. § 1161.2 (prohibiting clerk from sharing access to eviction actions unless the landlord prevails at a trial within 60 days of filing the complaint); Colo. Rev. Stat. § 13-40-110.5 (eviction records are suppressed and cannot be shared except for limited uses which explicitly exclude "commercial purposes"); Me. Stat. tit. 4, § 9-C (eviction records only available at a courthouse if case dismissed, resolved in favor of tenant, or judgment over three years old) Nev. Rev. Stat. § 40.2545 (sealing eviction records if case dismissed and in other circumstances), .

²² Cal. Civ. Code § 1954.07 (landlord shall offer the option of having the tenant's positive rental payment information reported to at least one credit bureau).

²³ 220 Code Mass. Regs. 25.05.

²⁴ National Association of State Utility Consumer Advocates, Resolution 2010-3: Opposing "Full Credit Reporting" of Payment Histories on Residential Gas and Electric Accounts, June 15, 2010, *available at*

In addition to being a preemption bill, full file reporting (*i.e.*, including negative as well as positive information) poses severe risks to struggling consumers, as discussed in Section E. For more on our opposition to the Credit Access and Inclusion Act, Attachment B is our letter opposing this bill, which was sent from 70 organizations.

C. H.R. 8141, the “Fair Credit Reporting Reseller Accuracy Act,” lets resellers off the hook for liability over errors they should have detected

H.R. 8141 is framed as imposing new accuracy standards on resellers, but it actually would give these companies immunity over inaccuracies for which they should bear responsibility. Resellers are a specific type of consumer reporting agency (CRA) under the FCRA that “assembles and merges information” from one or more other CRAs.²⁵ H.R. 8141 gives resellers a free pass from liability for inaccuracies if they are conveying from the other CRA, and is essentially a get out of jail free card.

H.R. 81841 is purported to help consumers and add a “new” requirement for resellers to have procedures to ensure “maximum possible accuracy.”²⁶ But the vast majority of legal cases, such as the three examples discussed below, already apply this standard to resellers, which is contained in Section 1681e(b) of the FCRA.

More disturbingly, H.R. 8141 contains a “Limitation on Liability” provision in paragraph (2) that states “No reseller may be held liable under this title if such reseller accurately communicates information obtained from another consumer reporting agency to an end user or another reseller.” This is a legal immunity provision for resellers, letting them off the hook if they are conveying information unaltered from another CRA.

H.R. 8141 would let resellers off the hook even when the reseller knew or should have known that the information from the original CRA was inaccurate or questionable enough to have triggered a duty to investigate further. For instance, there are times when a reseller receives information from other CRAs that is internally contradictory or illogical and the reseller makes no effort to reconcile these inconsistencies. If resellers receive data that is inconsistent on its face, they should be required to investigate further, not pass along facially illogical information. Examples of such facially illogical information are:

- In *Ocasio v. CoreLogic Credco, L.L.C.*,²⁷ a reseller sold a consumer report that included negative information belonging to the plaintiff’s grandmother. The inaccuracy was obvious from the face of the consumer report because it included the accounts owned by individuals with different birth years (1938 vs. 1987), yet the reseller made no effort to resolve the inconsistency.

<http://nasuca.org/opposing-full-credit-reporting-of-payment-histories-on-residential-gas-and-electric-accounts-2010-03-2/>.

²⁵ 15 U.S.C. § 1681a(u).

²⁶ Press Release, Lawler, Gottheimer Introduce Bipartisan Bill to Strengthen Credit Data Accuracy and Protect Consumers, Mar. 30, 2026, <https://lawler.house.gov/news/documentsingle.aspx?DocumentID=5718>

²⁷ 2015 WL 5722828, (D.N.J. Sept. 29, 2015).

- In *Oatway v. Experian Info. Sols., Inc.*,²⁸ a reseller communicated inaccurate information received from Experian that the consumer was deceased. The error was caused due to the entry of an incorrect Social Security number, which was the fault of either the reseller or the auto dealership. Regardless, the reseller had facially contradictory information as to the consumer's death in its possession, *i.e.*, that the consumer was making payments “on 35 total accounts and provided proof of his identity in person at the dealership” which should have provided notice to the reseller that there was a problem.
- In *Rogue v. CoreLogic Credco, LLC*,²⁹ a reseller inaccurately reporting that the consumer filed for bankruptcy. Only Equifax had reported the bankruptcy, TransUnion and Experian had not. The court held that the reseller could be held liable for the inaccuracy given this inconsistency between the information supplied by the three credit bureaus, and “specifically noted that other district courts have repeatedly rejected Credco's and other resellers' arguments that a reseller is only required to accurately reproduce the information furnished to it by other credit bureaus.”³⁰

Note the CFPB had issued guidance stating that CRAs should have reasonable procedures to prevent the inclusion of the facially inconsistent and illogical information, such as an inaccurate “deceased” notation when every other tradeline is reporting ongoing payment activity.³¹

Resellers are already on notice that they need to investigate and resolve facially illogical information before issuing reports, even if that information comes from another CRA, including information that is inconsistent between the Big Three credit bureaus. This bill would undermine this requirement by letting resellers escape from liability in such circumstances, potentially increasing the amount of junk data. This harms both consumers as well as creditors who lose valuable information as to who would be a good customer.

Tenant screening CRAs are another type of reseller, which are used by landlords to determine whether or not to approve rental housing applications. One of the problems in tenant screening is the failure of CRAs to report information about the dispositions of eviction or criminal records, including dispositions favorable to the tenant. In *Grant v RentGrow*,³² the court held that a reseller could be held liable for reporting the filing of an eviction proceeding without reporting that the eviction had been dismissed in the plaintiff's favor, even though the information originated from TransUnion's tenant screening subsidiary Transunion Rental Screening Solutions, Inc. (“TURSS”).

In *Grant v. RentGrow*, the court rightfully held that the reseller could be liable for passing along the information from TURSS given it had warning signs that TURSS data might not be reliable. In fact, the very argument at the heart of this bill was considered and rejected by the court, which

²⁸ 2025 WL 2689029 (W.D. Wash. Sept. 19, 2025)

²⁹ 2020 WL 7061745 (D. Idaho Dec. 2, 2020)

³⁰ *Id.* at 4.

³¹ CFPB, Advisory Opinion on Fair Credit Reporting; Facially False Data (Oct. 20, 2022), available at https://files.consumerfinance.gov/f/documents/cfpb_fair-credit-reporting-facially-false-data_advisory-opinion_2022-10.pdf.

³² 2023 WL 5813140 (W.D. Tex. Sept. 6, 2023).

stated “This Court flatly rejects the notion that a CRA uses reasonable procedures in preparing a credit report when it knows or should know that it is passing along inaccurate information even when it passes along information unchanged after receipt from another CRA.”³³

Note that the particular problem at issue in *Grant v. RentGrow* - reporting court filings without their subsequent disposition - is something that the CFPB sued TURSS for in 2023³⁴ and had been a problem flagged by the state Attorney Generals in their 2015 settlement with all of the Big Three credit bureaus.³⁵ In addition, the CFPB later issued an Advisory Opinion stating that failure to provide disposition information was unreasonable.³⁶ So resellers should be on notice that they need to have procedures to ensure that they provide information about the disposition of a court case, and cannot blithely pass on a third party’s data, whether another CRA or a commercial public records vendor, without checking the court records for further developments. Again, this bill would undermine that requirement by letting resellers escape from liability in such circumstances.

Many resellers are large multinational corporations, including private-equity owned companies, which have more than adequate resources to comply with these requirements, *i.e.*, reconciling facially illogical information and making sure public record information is up to date. Resellers are sometimes portrayed as being small, family-owned businesses, but that is often not the case. One of the most prominent resellers is CoreLogic Credco, now known as Cotality. CoreLogic was formerly a publicly traded company that was purchased by a private equity fund for \$6 billion and taken private in 2021,³⁷ hardly a mom-and-pop company unable to perform due diligence checks.

Another prominent provider of tri-merged credit reports is Equifax Mortgage Solutions.³⁸ A third leading mortgage reseller is private equity-owned³⁹ Xactus, which has over 6,500 clients

³³ *Id.* at 12.

³⁴ Press Release, FTC and CFPB Settlement to Require Trans Union to Pay \$15 Million over Charges It Failed to Ensure Accuracy of Tenant Screening Reports, Oct. 12, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-cfpb-settlement-require-trans-union-pay-15-million-over-charges-it-failed-ensure-accuracy-tenant>.

³⁵ Assurance of Voluntary Compliance/Assurance of Voluntary Discontinuance, In re Equifax Info. Serv. L.L.C., Experian Info. Sols., Inc., & TransUnion L.L.C. § IV (E)(6) (May 20, 2015), <https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/Consumer-Protection/2015-05-20-CRAs-AVC.aspx>

³⁶ CFPB, Advisory Opinion on Fair Credit Reporting; Background Screening, 89 Fed. Reg. 4171, 4174 (Jan. 23, 2024). The CFPB withdrew a number of guidance documents in May 2025, including this Advisory Opinion, but the reasoning within it is still sound and persuasive.

³⁷ CoreLogic to be acquired by PE firms for \$6bn, *Financier Worldwide Magazine*, April 2021, <https://www.financierworldwide.com/corelogic-to-be-acquired-by-pe-firms-for-6bn>.

³⁸ Equifax, Equifax Mortgage Merged Credit Report, 2025, <https://assets.equifax.com/marketing/US/assets/mortgage-merged-credit-report.pdf>

³⁹ One of Xactus’s owners is private equity firm Lovell Minnick. Press Release, UniversalCIS Announces Investment from Lovell Minnick Partners, Mar. 17, 2021, <https://xactus.com/universalcis-announces-investment-from-lovell-minnick-partners/>

ranging and 12 operation centers across the U.S.,⁴⁰ and lists former House speaker Paul Ryan as a Board member.⁴¹

Many tenant screening CRAs, such as RentGrow, RealPage, SafeRent, and AppFolio are also not small family-owned businesses. RentGrow is owned by Yardi,⁴² which boasts “over 9,000 professionals in more than 40 offices worldwide.”⁴³ RealPage, the company behind the notorious rent price-fixing algorithm,⁴⁴ was acquired by private equity firm Thoma Bravo for \$10.2 billion in April 2021.⁴⁵ While not all tenant screening CRAs may currently consider themselves to be resellers currently, they certainly will be incentivized to do so if resellers are granted immunity from liability for inaccuracies under the FCRA.

Other types of CRAs such as criminal background check CRAs, are likely to restructure themselves as resellers if they are granted immunity. This would likely lead to even more inaccuracies in a problematic industry that has such enormous impact on both workers and employers;⁴⁶ an inaccurate employment background check could be devastating in costing a worker a much-needed job.

D. H.R. 7588, the “Eliminating Fraud in the CFPB’s Complaint Database Act” Deliberately Sabotage and Undermines the CFPB’s Ability to Help Consumers

H.R. 7588 aims to hamstring the effectiveness and usability of the CFPB’s Consumer Response function. It reduces the transparency of the complaint database by removing complaint narratives, hinders consumer’s ability to seek assistance in filing complaints, and allows companies unbridled discretion to reject complaints.

The Russell Vought-led CFPB has already begun the process of weakening the CFPB complaint function by adding three webpages to the Complaint Intake Form with intimidating and legally questionable warnings telling consumers they must first contact a credit bureau and wait for the company’s response before filing a complaint over the accuracy of their credit reports.⁴⁷ An analysis of CFPB complaint data by ProPublica documents how two of the Big Three credit bureaus have sharply reduced the share of consumer complaints they resolved in the consumer’s

⁴⁰ Xactus, Xactus Named One of America’s Fastest-Growing Companies, <https://xactus.com/inc-5000-named-xactus-no-288-among-americas-fastest-growing-private-companies/> (viewed April 12, 2026).

⁴¹ Xactus, About Us, <https://xactus.com/about/> (viewed April 12, 2025).

⁴²CFPB, List of Consumer Reporting Companies, at 23, https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-companies_list_2025.pdf

⁴³ Yardi, About Us, <https://www.yardi.com/company/about-us/> (viewed April 12, 2025).

⁴⁴ Heather Vogell, Rent Going Up? One Company’s Algorithm Could Be Why, ProPublica, Oct. 15, 2022, <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>.

⁴⁵ RealPage, Thoma Bravo Completes Acquisition of RealPage, April 22, 2021, <https://www.realpage.com/news/thoma-bravo-completes-acquisition-of-realpage/>.

⁴⁶ See Ariel Nelson, National Consumer Law Center, Broken Records Redux: How Errors by Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing (2019), www.nclc.org/images/pdf/criminal-justice/report-broken-records-redux.pdf.

⁴⁷ For a fuller discussion of this, see NCLC, Comments re: CFPB Consumer Response Intake Form, Docket No. CFPB-2026-0005, March 2, 2026, <https://www.nclc.org/resources/comments-opposing-changes-to-the-cfpb-complaint-portal-that-discourage-credit-reporting-complaints/>.

favor; the rate plummeted by half for TransUnion and from 20% to less than 1% for Experian.⁴⁸ H.R. 7588 would continue this trend of neutering the effectiveness of CFPB's Consumer Response function.

First, the bill would prohibit CFPB from publishing narrative information from a complaint and the company response by designating it confidential. Consumers would no longer be permitted to share their complaint narrative, effectively stifling their voice when they desire to make the information public. This would also eliminate an important tool used by CFPB, journalists, researchers, and other stakeholders in understanding and documenting problems with industry actors.

Second, H.R. 7588 would require consumers to personally submit the complaint by themselves and could not have a third party assist them in filing a complaint, unless the third party provided the consumer's authorization and sensitive identification documents. This latter requirement could deter a consumer's friends, family, social workers, teachers, or credit counselors trying to help a consumer, because in order to do so, they would be required to upload their own driver's license, birth certificate, or Social Security card. Furthermore, requiring the submission of these documents puts the third party's highly sensitive personal information at risk for security breaches.

This requirement for identification could also be abused by companies to block third parties attempting to help consumers file complaints. There is a history of such obstruction by the credit bureaus, which have an unfortunate practice of requiring onerous levels of identification from consumers.⁴⁹

Third, H.R. 7588 requires consumers to have first sent a dispute with the company more than 60 days prior to filing a CFPB complaint. The bill would allow the company to close a complaint if they think the consumer failed to fulfill this requirement. Requiring a consumer to contact the company 60 days in advance unjustifiability makes the consumer wait two months before they can even start the process of obtaining relief. Such a delay is overly burdensome, especially if the consumer is attempting to undertake a time sensitive task, such as closing on a mortgage, applying for a job, buying a much-needed automobile, or applying for rental housing.

Also, relying on the company to determine when a consumer has previously filed a dispute is problematic. As the CFPB noted in 2022, the Big Three credit bureaus have deficiencies in their processes that prevent adequately tracking of disputes with them. The CFPB concluded that relying on the companies to determine whether a consumer has previously filed a dispute would

⁴⁸ Joel Jacobs, Credit Bureaus Are Leaving More Mistakes on Frustrated Consumers' Reports Under Trump's CFPB, ProPublica, March 10, 2026, <https://www.propublica.org/article/credit-report-mistakes-cfpb-experian-transunion>.

⁴⁹ See NCLC, Comments re: CFPB Consumer Response Intake Form, *supra* note 47; NCLC, Comments re: Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking, Docket No. CFPB-2022-0023/RIN 3170-AB12, May 9, 2022, <https://www.nclc.org/resources/consumer-and-survivor-advocacy-groups-comments-to-cfpb-on-proposed-rule-to-protect-trafficking-survivors/>.

be unreliable and “too stringent.”⁵⁰ And just this past December 2025, the CFPB noted a wide divergence between the number of consumers who reported that they previously disputed with a credit bureau and the numbers that the credit bureaus themselves reported. About 90% of consumers with a credit reporting accuracy dispute reported they had submitted a previous dispute to the credit bureau, but Equifax reported a rate of only 37% in mid-2025 and TransUnion reported a rate of about 30%.⁵¹ Companies should not be permitted to decide whether the consumer’s dispute is legitimate based on whether they filed a previous dispute, and thus should be entitled to assistance from the CFPB.

Fourth, H.R. 7588 permits a company to close without taking action on a complaint to the CFPB if the company deems the complaint to be frivolous, duplicative, submitted by a third party without authorization, or was submitted fraudulently or for misleading purpose. This provision gives way too much leeway and discretion for a company to ignore consumer complaints by simply declaring them to fit one of those criteria. Indeed, the Big Three credit bureaus have a history of incorrectly believing that complaints or disputes were submitted by a third party or “suspicious,” leading to a significant jury verdict against Experian over the practice.⁵² And in a January 2022 report, the CFPB criticized the Big Three credit bureaus for relying on “speculative criteria” in treating complaints as illegitimately submitted by third parties, leading the companies to fail to provide relief.⁵³

Finally, H.R. 7588, as well as the recent alternations to the complaint portal by the Vought-led CFPB, appear to be in response to the massive number of credit and consumer reporting complaints filed by consumers with the CFPB, as cited in Section A. The millions of complaints each year reflect the endemic problems with the credit reporting system that cause substantial harm to consumers. They are not, as industry has repeatedly claimed,⁵⁴ simply the product of third-party credit repair organizations. That claim has been refuted, including by the CFPB itself, which noted in 2025 that only 10% of credit reporting complaints were flagged as being potentially submitted by an unauthorized third party.⁵⁵

⁵⁰ CFPB, Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion 42 (Jan. 2022), https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf.

⁵¹ CFPB, Annual report of credit and consumer reporting complaints 9, Dec. 2025, https://files.consumerfinance.gov/f/documents/cfpb_fcra-611e-report_2025-12.pdf

⁵² *Younger v. Experian Info. Sols., Inc.*, 817 Fed. Appx. 862, 865 (11th Cir. 2020); National Consumer Law Center, Fair Credit Reporting § 4.5.2.3 (10th ed. 2022), updated at www.nclc.org/library.

⁵³ CFPB, Annual Report of Credit and Consumer Reporting Complaints, *supra* note 50, at 28.

⁵⁴ See, e.g., Kate Berry, Surge in credit report lawsuits has banks, credit agencies scrambling, *American Banker*, June 26, 2024, <https://www.americanbanker.com/news/surge-in-credit-report-lawsuits-has-banks-credit-agencies-scrambling> (industry representatives claiming that spike in complaints and lawsuits against the nationwide CRAs were result of credit repair).

⁵⁵ CFPB 2025 Consumer Response Annual Report, *supra* note 5, at 16.

This percentage has been even lower over the past several years. *See* CFPB 2024 Consumer Response Annual Report at 19 (administrative response rate of 3%); CFPB 2023 Consumer Response Annual Report at 19-20 (administrative response rate of 4%); CFPB 2022 Consumer Response Annual Report at 19 (administrative response rate of 2%); CFPB, Consumer Response Annual Report January 1-December 31, 2019, at 14, 17 (March 2020) https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2019.pdf (3% of complaints flagged with “administrative response”; explaining that “Administrative Response” includes complaints submitted by unauthorized third parties, complaints that are the result of fraud, scams or business identity theft, and complaints where a company cannot confirm a commercial relationship with the consumer).

Claiming that the bulk of complaints against the credit bureaus are merely the product of bots or illegitimate credit repair is not only unsupported, but also minimizes the pain and frustration of millions of consumers who've been unfairly burdened with the credit reporting abuses discussed above. And instead of fixing the problems with inaccuracies and poor dispute handling by Big Three credit bureaus, H.R. 7588 bows to the industry's demands to sweep the problem under the rug by suppressing the volume of complaints.

E. Consumers Need a Better System, Not More of their Data Fed to the Dysfunctional Credit Reporting System

The credit reporting system is broken, dysfunctional, and abuses consumers. Yet instead of fixing it, these bills seem to immunize the very companies harming consumers and encourage feeding them even more data.

Efforts to add “alternative data” could do more harm than good. For example, the Credit Access and Inclusion Act is purportedly intended to allow monthly reporting of utility and rental payments in order to help consumers who lack sufficient credit history. In addition to not actually doing that and being a disguised preemption bill, full file utility and rent reporting could also have a harmful impact on millions of consumers, particularly financially struggling families and Black consumers.

Negative rental payment information on a credit report can be devastating for tenants, because as many as 90% of landlords consider credit information either independently or bundled in specialized tenant screening reports.⁵⁶ Many landlords will not rent to a consumer with any record of a late rent payment, or will charge them a prohibitively high security deposit.⁵⁷ Further, the threat of negative reporting can keep tenants from exercising their legal rights to withhold rent payments because of poor conditions in a unit, such as lack of heat.⁵⁸ For more on the risks of full-file rent reporting, see NCLC's Issue Brief, *Even the Catch-22s Come With Catch-22s: Potential Harms & Drawbacks of Rent Reporting* (Mar. 2024).⁵⁹

As for utility payments, skyrocketing energy costs have stressed the budgets of millions of households, resulting in high levels of late payments. According to data from the Census Bureau's Household Pulse Survey, nearly 1 in 4 households (23.7%) reported missing a utility bill or being unable to pay every bill in full in the past 12 months, rising to over one-third

⁵⁶ TransUnion SmartMove, TransUnion Independent Landlord Survey Insights (Aug. 7, 2017) (85% of landlords run an eviction report on all applicants and 90% run credit and criminal background checks on all applicants). *See generally*, Chi Chi Wu, et al., National Consumer Law Center, *Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters*, Sept. 2023, https://www.nclc.org/wp-content/uploads/2023/09/202309_Report_Digital-Denials.pdf

⁵⁷ *Id.*

⁵⁸ For example, in New York City, Guardian Realty used rent reporting to retaliate against tenants who withheld rent because of terrible conditions in their buildings, including broken elevators, rats running through the walls, and frequent shutoffs of heat and hot water. <https://www.curbed.com/2023/11/landlords-credit-bureau-tenants-bad-credit-score.html>

⁵⁹ Available at <https://www.nclc.org/resources/even-the-catch-22s-come-with-catch-22s-potential-harms-drawbacks-of-rent-reporting/>

(37.4%) for households with an income under \$50,000.⁶⁰ With full-file utility credit reporting, each of these households would have had negative credit reporting information from these late payments. And the harmful impact of late utility payments on credit scores would disproportionately affect Black and brown households, who more frequently struggle to pay utility bills.⁶¹

Proponents assert that a low credit score is better than no score. However, as the CFPB has noted: “Though not having a credit score can reduce access to credit, so too does having a subprime credit score, Indeed, as stated by one [credit bureau], generally ‘no credit is better than bad credit’ for the purposes of accessing credit.”⁶² For employment and insurance, it is also better to have no credit history than a bad one.⁶³ A low score could also put a consumer on the radar for lead generators and predatory lenders who target high-cost credit to consumers with low scores.

In contrast to monthly reporting to the credit bureaus, there are better, more consumer-friendly methods to capture alternative data such as utility and rent payment data. For example, consumers can opt-in to sharing their bank account transaction data to enable lenders to view and verify consistent, positive payments of regular bills such as rent and utilities. Such programs have already been developed and are in use by Fannie Mae⁶⁴ and Freddie Mac.⁶⁵ Bank account transaction data could prove to be a superior form of assessing credit risk than credit bureau reports, given it provides insight into a consumer's actual money management history, is only supplied with the consumer's active permission, and is likely to be more accurate than data furnished by third parties that might not report data consistently or use reporting coercively.

Finally, instead of passing giveaways to the Big Three credit bureaus, we urge Congress to adopt reforms to rein in their abuses. Indeed, the House of Representatives passed a comprehensive and strong FCRA reform bill back in January 2020, the Comprehensive CREDIT (Credit Reporting Enhancement, Disclosure, Innovation, and Transparency) Act.⁶⁶ We also urge Congress to authorize the creation of a public credit registry, so that consumers have an alternative to the oligopoly of the Big Three credit bureaus.⁶⁷

⁶⁰ National Energy Assistance Directors Association, Energy Hardship Report, Aug. 2024, at 9, <https://neada.org/wp-content/uploads/2024/08/August-Summer-Hardship-Report-Final.pdf> (analyzing Census Pulse Survey data).

⁶¹ Trevor Memmott, et al., Sociodemographic disparities in energy insecurity among low-income households before and during the COVID-19 pandemic, *Nature Energy*, Fed. 2021, <https://par.nsf.gov/servlets/purl/10248735> (“Black and Hispanic households are more likely to experience energy insecurity and face utility disconnection”).

⁶² CFPB, Proposed Rule: Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V), 89 Fed. Reg. 51,682, 51,711, n. 230 (June 18, 2024)

⁶³ See *Safeco Ins. Co. of Am. v. Burr*, 127 S. Ct. 2201, 2206-2207, n. 4 (2007) (noting that a number of states require the use of “neutral” credit scores for thin or no file consumers).

⁶⁴ Press Release, Fannie Mae Introduces New Underwriting Innovation to Help More Renters Become Homeowners, August 11, 2021, <https://www.fanniemae.com/newsroom/fannie-mae-news/fannie-mae-introduces-new-underwriting-innovation-help-more-renters-become-homeowners>

⁶⁵ Freddie Mac, Freddie Mac Takes Further Action to Help Renters Achieve Homeownership, June 29, 2022, <https://freddiemac.gcs-web.com/news-releases/news-release-details/freddie-mac-takes-further-action-help-renters-achieve>.

⁶⁶ H.R. 3621 (116th Cong.), available at <https://www.congress.gov/bill/116th-congress/house-bill/3621>.

⁶⁷ For more on this idea, see *A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity*: Hearing Before the H. Comm. on Fin. Servs. 117th Cong. (2021) (statements of Amy Traub,

Conclusion

For the above-stated reasons, we urge Congress to reject all of the proposals that are the subject of this hearing. Thank you very much for the opportunity to testify today. I would be happy to answer any questions.

Demos and Chi Chi Wu, National Consumer Law Center), <https://www.govinfo.gov/content/pkg/CHRG-117hrg45358/html/CHRG-117hrg45358.htm>; Amy Traub, Demos, Establish a Public Credit Registry, 2019 <https://www.demos.org/policy-briefs/establish-public-credit-registry>.

Attachment A

Examples of Harm from Inaccurate Credit Reports and Background Checks

Below are examples showing consumer reporting agencies whose conduct was so detrimental that individual consumers were unable to get serious errors in their credit reports or background checks fixed until they sued in court, and examples of consumers who banded together in class actions to seek accountability for violations of their rights under the Fair Credit Reporting Act. Under H.R. 5775, the "FCRA Liability Harmonization Act, these consumers would have been denied the ability to seek adequate remedies.

Taylor v. Equifax

In this case, Equifax mixed the credit report of plaintiff David Anthony Taylor with David Allan Taylor, despite a different social security number and date of birth, with devastating results for David Anthony Taylor. Taylor, a veteran, had put his house on the market after having been preapproved for a VA home mortgage and found a new home. But he was unable to close on his new home, because Equifax had added numerous negative accounts from David Allen Taylor. David Anthony Taylor disputed the inaccurate information several times over the course of six months but Equifax failed to fix its mistakes. Unable to close on his new home, and having sold his old home, Taylor had nowhere to live and could not find an apartment that would accept his pit bulls. Taylor ultimately spent months in a motel, was forced to kennel board and re-home a number of his dogs, and even had to put two dogs to sleep because he could not find somewhere to re-home them.

Cornelius v. Samba Security

Tamia Cornelis, an Uber driver had her account deactivated because a background check CRA falsely reported that her driver's license had been withdrawn. Cornelius disputed this inaccurate reporting twice, including a copy of her valid driver's license, but SambaSafety failed to correct it. In conducting its alleged investigation, SambaSafety failed to even contact the state Department of Motor Vehicles. SambaSafety's incompetence resulted in Cornelius losing 13 months of income, including approximately \$7,000 per month during the height of Alaska's summer tourist season. A jury awarded Cornelius both actual damages and punitive damages for Samba Security's failure to correct an obvious error that was easily fixable.

Cayler v. TransUnion Rental Screening Solutions, Inc. (TURSS)

TURSS, a subsidiary of TransUnion issued an inaccurate tenant screening report falsely claiming that Scott Cayler was convicted of "Indecency with a Child Sexual Contact" and "Indecency with a Child by Contact." The potential landlord rejected Cayler's rental application, only relenting after the plaintiff explained the situation directly and requiring him to pay six months rent in advance, totaling over \$18,000. Cayler was understandably deeply distressed by TransUnion's false labeling of him as a child sex offender and his having to prove his innocence to a prospective landlord.

Duncan v. Experian

In this case, a JAMS arbitrator awarded the plaintiff both actual damages and punitive damages over Experian's failure to remove a \$38 debt associated with a long-dormant account that belonged to the plaintiff's long deceased father. The account had the plaintiff's name listed from when he helped his father manage his finances, but there was no evidence that the plaintiff agreed to be responsible for the debt. The \$38 debt resulted in a 72 point drop to the plaintiff's credit score, interfered with his mortgage refinancing, and caused him great emotional distress.

Panchenkov v. Comenity

Oleksandr Panchenko relocated to the U.S. in April 2023 after fleeing the war in Ukraine. Soon after, he discovered that a fraudster had generated approximately \$200,000 in unauthorized credit card debt under his name using a Social Security number Panchenko had obtained in 2009 when he was student in the U.S. Panchenko disputed all of the ID theft created accounts, explaining he was not in the U.S. when the accounts were opened, and providing his visa history, passport, and a police report. Several creditors deleted the ID theft accounts, but several did not, including Comenity Bank. Comenity conducted shoddy, pro forma investigations in which agents knowingly did not review important information – in particular, documents that Panchenko provided with his dispute. A jury was outraged at Comenity's conduct, awarding him both actual damages and punitive damages.

In re: Equifax Customer Data Security Breach Litigation

One of the most infamous examples of a credit reporting company's incompetence was Equifax's data breach, where hackers stole the private personal information of 147 million Americans due to that company's lax security measures. The class action settlement over the Equifax data breach resulted in a \$380.5 million settlement for injured consumers – a far cry from the \$500,000 cap for class action damages in H.R 5775. Ironically, the last time that a bill called the "FCRA Liability Harmonization Act," was discussed in this Subcommittee was at a September 7, 2017 hearing – the same day that the Equifax data breach was publicly revealed.

Attachment B

July 8, 2025

Re: Credit Access and Inclusion Act (Kim) (oppose)

Dear Representative:

The undersigned 70 consumer, housing, civil rights, utility rights, and advocacy groups write to you to express opposition to the Credit Access and Inclusion Act (Kim). This legislation, if enacted, would harm consumers by:

- reducing consumers' control over their own data by preempting state and federal privacy protections;
- overriding state law protections for renters from tenant screening abuses;
- harming millions of consumers by lowering their credit scores or making it much harder to obtain rental housing, with a disproportionate impact on Black consumers; and
- conflicting with long-standing state utility regulatory consumer protections

Put simply, the Credit Access and Inclusion Act is almost exclusively a preemption bill, since the current Fair Credit Reporting Act (FCRA) does not include any restrictions against the reporting of either utility or rental payment data. The intended effect of the bill is to override state and other federal laws that protect the privacy and economic interests of consumers, especially those struggling to afford high utility bills or obtain affordable rental housing.

The Credit Access and Inclusion Act is All About Preemption

The Credit Access and Inclusion Act would reduce consumers' control over their own information by nullifying state and federal privacy protections for utility customers and tenants. The bill amends Section 623 of the Fair Credit Reporting Act to permit utilities, landlords, debt collectors, court systems, and others to supply utility or rental payment information to a credit bureau or other consumer reporting agency (such as a tenant screening company) "notwithstanding any other provision of law." This would include both state laws and other federal consumer protection laws.

Thus, this bill would preempt state laws that require consumer consent before a utility company can share information about that consumer's payment information to a credit bureau or other consumer reporting agency. This includes state privacy protections in California,¹ New Jersey,² Washington State,³ Wisconsin,⁴ and potentially other state laws.⁵

The Credit Access and Inclusion Act would also prevent states from regulating landlords, debt collectors, court systems, and others when they report payment information (including potentially evictions based on

¹ Cal. Pub. Util. Code § 2891 (prohibiting telephone company from sharing customer's financial information without customer's consent).

² N.J. Stat. Ann. § 48:3-85(b)(1) (prohibiting electric or gas utility disclosure, sale or transfer of customer's proprietary information, including, but not limited to, customer's name, address, telephone number, energy usage, and electric power payment history, to a third party without the consent of the customer).

³ Rev. Code Wash. § 19.29A.100 (privacy protections for electric utility customers).

⁴ Wis. Stat. § 196.137 (prohibiting municipal utilities from releasing "customer information" without the customer's consent except in specific situations).

⁵ See generally, State & Local Energy Efficiency Action Network, A Regulator's Privacy Guide to Third-Party Data Access for Energy Efficiency, December 2012, p.7 (Table 2), available at https://www4.eere.energy.gov/seeaction/system/files/documents/cib_regulator_privacy_guide_0.pdf.

nonpayment) about a tenant to credit bureaus or tenant screening agencies. Thus, it could override state laws that prohibit court systems from sharing sealed or expunged eviction records based on nonpayment of rent to tenant screening companies.⁶ It could ironically even preempt state laws adopted to require landlords to offer the option of reporting positive-only rental payment information.⁷ States are traditionally the entities that regulate the landlord-tenant relationship and the consequences from nonpayment of rent. States have developed laws to seal and expunge eviction records through years of legislative debate and experimentation. These laws have proven to be more just and rational for renters while not overburdening court systems or consumer reporting agencies. The Credit Access and Inclusion Act infringes on the states' historic powers in this area.

The Credit Access and Inclusion Act would also override any current protections for HUD-subsidized tenants, such as the Privacy Act which we understand has been applied to Public Housing Authorities (PHAs). While this bill is touted as enabling consumers to build a credit record with positive information, it would also allow PHAs to report negative information without these current protections.⁸

Harmful Impact on Consumers

Proponents claim that monthly reporting of utility and rental payments will help improve credit scores of millions of consumers who lack any credit history or whose records are too scant or “thin” to generate a credit score. But such reporting could also have a harmful impact on many utility customers and tenants, particularly financially struggling families and Black consumers.

Negative rental payment information on a credit report can be devastating for tenants, because as many as 90% of landlords consider credit information either independently or bundled in specialized tenant screening reports.⁹ Many landlords will not rent to a consumer with any record of a late rent payment, or will charge them a prohibitively high security deposit, risking locking families out of the housing market.¹⁰ Further, the threat of negative reporting can keep tenants from exercising their legal rights to withhold rent payments because of poor conditions in a unit, such as lack of heat.¹¹

⁶ See, e.g., Ariz. Rev. Stat. Ann. § 33-1379(C)(3)(prohibiting courts selling or releasing sealed eviction cases “as a part of a bulk or individual records transfer to a third party”); Cal. Code of Civ. Pro. § 1161.2 (prohibiting clerk from sharing access to eviction actions unless the landlord prevails at a trial within 60 days of filing the complaint); Colo. Rev. Stat. § 13-40-110.5 (eviction records are suppressed and cannot be shared except for limited uses which explicitly exclude “commercial purposes”); Me. Stat. tit. 4, § 9-C (eviction records only available at a courthouse if case dismissed, resolved in favor of tenant, or judgment over three years old) Nev. Rev. Stat. § 40.2545 (sealing eviction records if case dismissed and in other circumstances), .

⁷ Cal. Civ. Code § 1954.07 (landlord shall offer the option of having the tenant’s positive rental payment information reported to at least one credit bureau).

⁸ As an example of the type of negative information, media reports indicate there are 70,000 tenants of the New York City Housing Authority who owe back rent from the COVID-19 pandemic era, in part because they were the lowest priority category of tenants for relief programs during that era. See Tatyana Turner, NYCHA Still Reeling With Rent Debts From COVID-19, City Limits, Sept. 20, 2024, <https://citylimits.org/nycha-still-reeling-with-rent-debts-from-covid-19/>.

⁹ TransUnion SmartMove, TransUnion Independent Landlord Survey Insights (Aug. 7, 2017) (85% of landlords run an eviction report on all applicants and 90% run credit and criminal background checks on all applicants). See generally, Chi Chi Wu, et al., National Consumer Law Center, Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters, Sept. 2023, https://www.nclc.org/wp-content/uploads/2023/09/202309_Report_Digital-Denials.pdf

¹⁰ *Id.*

¹¹ For example, in New York City, Guardian Realty used rent reporting to retaliate against tenants who withheld rent because of terrible conditions in their buildings, including broken elevators, rats running through the walls, and frequent shutoffs of heat and hot water. <https://www.curbed.com/2023/11/landlords-credit-bureau-tenants-bad-credit-score.html>

The COVID-19 pandemic illustrates the risks of potential harm from rent reporting. At various times during the pandemic, between 6 million¹² and 13 million¹³ households were behind in rent but likely were able to stay in their homes due to various eviction moratoria. These households were disproportionately renters of color; for example, in September 2020, about 1 in 4 Black and Asian renters and 1 in 5 Latino renters said they were not caught up on rent, compared to 1 in 9 white renters.¹⁴ The Urban Institute has found even starker statistics, reporting that 45% of Black renters missed or were late on at least one rent payment during a one-year period beginning in July 2020.¹⁵

As for utility payments, skyrocketing energy costs have stressed the budgets of millions of households, resulting in high levels of late payments. According to data from the Census Bureau's Household Pulse Survey, nearly 1 in 4 households (23.4%) reported missing a utility bill or being unable to pay every bill in full in the past 12 months, rising to over one-third (37.4%) for households with an income under \$50,000.¹⁶

The harmful impact of late utility payments on credit scores would disproportionately affect Black and brown households, who more frequently struggle to pay utility bills.¹⁷ According to the same Household Pulse Survey, nearly one-third (31.2%) of households of color (any income) reported missing a utility bill or being unable to pay every bill in full in the past 12 months, as compared to 23.4% of households overall.¹⁸

With full-file utility credit reporting, each of these households would have had negative credit reporting information from these late payments. Thus, to the extent that utility or rent reporting creates a score for “thin file” or “no file” consumers, we fear that it will end up being a negative credit score. For low-income consumers who already have a credit score, utility or rent reporting may harm their existing credit histories.

Proponents assert that a low credit score is better than no score. In many instances, however, no credit history is better than a bad one. For employment and insurance – where a negative credit report or low score could harm job prospects or increase rates – it is often better to have no credit history. Indeed, with insurance, the absence of a credit score is treated as a “neutral.”¹⁹ A low score could also put a consumer on the radar for lead generators and predatory lenders who target high-cost credit to vulnerable

¹² Sarah Treuhaft, et al., *Rent Debt in America: Stabilizing Renters Is Key to Equitable Recovery*, National Equity Atlas, Sept. 16, 2021, <https://nationalequityatlas.org/rent-debt-in-america>.

¹³ Joseph Llobrera, et al., Center on Budget and Policy Priorities, *New Data: Millions Struggling to Eat and Pay Rent*, Sept. 23, 2020, <https://www.cbpp.org/research/poverty-and-inequality/new-data-millions-struggling-to-eat-and-pay-rent>

¹⁴ *Id.*

¹⁵ Jung Hyun Choi, et al., Urban Institute, *Reducing the Black-White Homeownership Gap through Underwriting Innovations*, at 9, Oct. 2022, <https://www.urban.org/sites/default/files/2022-10/Reducing%20the%20Black-White%20Homeownership%20Gap%20through%20Underwriting%20Innovations.pdf>.

¹⁶ National Energy Assistance Directors Association, *Percent of Households Unable to Pay Energy Bill by Survey Data*, <https://neada.org/needtoolkit/data/>,

¹⁷ Trevor Memmott, et al., *Sociodemographic disparities in energy insecurity among low-income households before and during the COVID-19 pandemic*, Nature Energy, Fed. 2021, <https://par.nsf.gov/servlets/purl/10248735> (“Black and Hispanic households are more likely to experience energy insecurity and face utility disconnection”).

¹⁸ National Energy Assistance Directors Association, *Percent of Households Unable to Pay Energy Bill by Survey Data*, <https://neada.org/needtoolkit/data/>,

¹⁹ See *Safeco Ins. Co. of Am. v. Burr*, 127 S. Ct. 2201, 2206-2207, n. 4 (2007) (noting that a number of states require the use of “neutral” credit scores for thin or no file consumers).

consumers. And it is unclear how much utility and rental payment information actually predicts a person's future performance on credit accounts, since they are very different types of obligations.

Conflict with State Utility Protections for Seniors and Others

In addition to preempting utility privacy provisions, the Credit Access and Inclusion Act undermines other state utility consumer protections. The bill would establish a dangerous precedent by encroaching on long-standing state jurisdictional authority over gas and electric utilities. States appropriately retain full ratemaking and customer service authority over franchised, monopoly companies that deliver necessary services within their boundaries.

Households retaining service and paying late under terms of state-sanctioned protections will experience harm to their credit scores under terms of this bill. The National Association of State Utility Consumer Advocates has voted to oppose full file utility credit reporting²⁰ in part because it conflicts with utility consumer protections in many states. For example, in Massachusetts, for example, utilities are prohibited from terminating service in low-income households where occupants are elderly or disabled.²¹ In addition, Massachusetts utilities cannot terminate service in households in which there is an infant under twelve months of age.²² Full file utility credit reporting threatens consumers with black marks on their credit reports even when state law provides for protection against disconnection of service.

Building a Better Mousetrap

In contrast to monthly reporting to the credit bureaus, there are better, more consumer-friendly methods to capture alternative data such as utility and rent payment data. For example, consumers can opt-in to sharing their bank account transaction data to enable lenders to view and verify consistent, positive payments of regular bills such as rent and utilities. Such programs have already been developed and are in use by Fannie Mae²³ and Freddie Mac.²⁴ Bank account transaction data could prove to be a superior form of assessing credit risk than even credit bureau reports, given it provides insight into a consumer's actual money management history, is only supplied with the consumer's active permission, and is likely to be more accurate than data furnished by third parties that may or may not report data consistently or use reporting purely coercively.

²⁰ National Association of State Utility Consumer Advocates, Resolution 2010-3: Opposing "Full Credit Reporting" of Payment Histories on Residential Gas and Electric Accounts, June 15, 2010, *available at* <http://nasuca.org/opposing-full-credit-reporting-of-payment-histories-on-residential-gas-and-electric-accounts-2010-03-2/>.

²¹ 220 Code Mass. Regs. 25.05.

²² 220 Code Mass. Regs. 25.03.

²³ Press Release, Fannie Mae Introduces New Underwriting Innovation to Help More Renters Become Homeowners, August 11, 2021, <https://www.fanniemae.com/newsroom/fannie-mae-news/fannie-mae-introduces-new-underwriting-innovation-help-more-renters-become-homeowners>

²⁴ Freddie Mac, Freddie Mac Takes Further Action to Help Renters Achieve Homeownership, June 29, 2022, <https://freddiemac.gcs-web.com/news-releases/news-release-details/freddie-mac-takes-further-action-help-renters-achieve>.

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Thank you for your attention. If you have any questions about this letter, please contact Chi Chi Wu (cwu@nclc.org) or John Howat (jhowat@nclc.org) at (617) 542-8010.

National Organizations

National Consumer Law Center (on behalf of its low-income clients)
20/20 Vision
Accountable.US/Accountable.NOW
Americans for Financial Reform (AFR)
Center for Digital Democracy
Center for Economic Justice
Consumer Action
Consumer Federation of America
Consumer Reports
National Association of Consumer Advocates
National Association of State Utility Consumer Advocates (NASUCA)
National Consumers League
National Fair Housing Alliance
National Housing Law Project
Public Citizen, Inc.

State and Local Organizations

Center for Economic Integrity (AZ)
William E. Morris Institute for Justice (AZ)
Arkansas Community Organizations
Community Legal Services in East Palo Alto (CA)
Center for Accessible Technology (CA)
Disability Rights California
Housing and Economic Rights Advocates (CA)
The Academy of Financial Education (CA)
TURN-The Utility Reform Network (CA)
Watsonville Law Center (CA)
Western Center on Law & Poverty (CA)
Colorado Poverty Law Project
Connecticut Legal Services, Inc.
Legal Aid DC
Jacksonville Area Legal Aid (FL)
Florida Legal Services, Inc.
Georgia Watch
Legal Action Chicago
Citizens Action Coalition of IN
Legal Key Partnership for Health and Justice (MA/RI)
Coastal Enterprises, Inc. (ME)
Maine People's Alliance
Economic Action Maryland Fund
Low-Income Energy Affordability Network (LEAN)(MA)
Public Justice Center (MD)
Michigan Poverty Law Program
Housing Justice Center (MN)

(signatories continue on the following page)

Legal Aid Center of Southern Nevada
Nevada Coalition of Legal Service Providers
Legal Services of New Jersey
New Jersey Appleseed Public Interest Law Center
New Jersey Citizen Action
New Jersey Institute for Social Justice
New Economy Project (NY)
New Yorkers for Responsible Lending
Western New York Law Center, Inc.
Legal Aid Society of Southwest Ohio
Oregon Consumer Justice
Oregon Consumer League
HELP: MLP (PA)
Philadelphia Solar Energy Association
Pennsylvania Utility Law Project, on behalf of its low-income clients
Community Legal Services of Philadelphia
George Wiley Center (RI)
South Carolina Appleseed Legal Justice Center
Texas Utility Law Project
Texas Appleseed
Legal Aid Justice Center (VA)
Vermont Legal Aid
Virginia Citizens Consumer Council
Virginia Organizing
Hopelink (WA)
Byrd Barr Place (WA)
El Centro de la Raza (WA)
Washington State Community Action Partnership