

SESSION OF 2009

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2292**

As Agreed to April 1, 2009

**Brief\***

HB 2292 would amend security freeze provisions in the state Fair Credit Reporting Act. Among the amendments to the Fair Credit Reporting Act, the bill would delete a requirement in current law that the consumer placing a security freeze on their consumer report must be a "victim of identity theft" and the related requirement for having a police report. The bill would add the following to the list of methods a consumer may utilize to contact a consumer reporting agency to request a security freeze:

- Regular mail;
- Through a secure website; or
- By telephone (if the consumer reporting agency does not have a secure website).

Additionally, the bill would change a requirement in current law to be permissive, allowing a third party to treat the application as incomplete. The bill would adjust the compliance by consumer reporting agencies with a request to lift a temporary freeze to include a provision for postal requests (no later than three business days) and electronic contact (15 minutes, if received during a certain time frame). Exceptions are specified for those occurrences which could prevent the lifting of the freeze within the 15 minute time frame.

The bill also would allow a fee to be charged, not to

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exceed \$5, for placing, temporary lifting, or removing each freeze or for replacing a previously requested personal identification number. The consumer reporting agency would not be allowed to charge a fee for the replacement of a previously requested personal identification number nor for a documented victim of identity theft.

The bill would allow persons who suspect they are victims of identity theft to contact local law enforcement; local law enforcement would be required to receive complaints and take a police report of the matter, even if the jurisdiction for investigation is elsewhere. The report could then be provided to a law enforcement agency in another jurisdiction. Finally, the bill would provide that violations of the provision governing the temporary freeze (15-minute reporting requirement) are to be the exclusive authority of the Attorney General.

Under the bill, a “security freeze” would be defined to mean a notice placed on a consumer report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer’s consumer report or credit score.

### **Conference Committee Action**

The Conference Committee agreed to the Senate amendments to HB 2292, and agreed to amend the bill further to delete the provisions applying to the regulation of loan brokers and distressed property consultants and the practice of distressed property consulting. These provisions had been contained in SB 241, as amended by Senate Committee.

### **Background**

HB 2292 was introduced by the Committee on Judiciary at the request of Representative Raj Goyle who testified that one of the main problems for victims of identity theft is that the current process is cumbersome, requiring a police report and

certified mail to file a complaint. Representative Gene Rardin indicated the bill would expedite the ability of consumers who fear identity theft to place freezes on their credit report information. Other proponents appearing in support of the bill included Representative Ron Worley and representatives of AARP Kansas, the Consumer Data Industry Association, and the Office of the Attorney General. Written testimony was provided by Brent Rebein, Overland Park, and a representative of the Kansas Advocates for Better Care. There were no opponents present at the time of the House Committee on Financial Institutions hearing.

The House Committee on Financial Institutions amendments incorporate a modified definition of “security freeze” from existing law (KSA 50-702) and specify that a consumer reporting agency is prohibited from charging a fee for replacing a previously requested personal identification number.

The Senate Committee on Financial Institutions and Insurance amendments further modify the definition of “security freeze” and amend a provision governing the temporary lifting of a security freeze that is requested by the electronic contact method. The amendments were requested by a representative of the Consumer Data Industry Association. The Senate Committee further amended the bill to insert the provisions of 2009 SB 241 (as amended by the Senate Committee on Financial Institutions and Insurance).

The Senate Committee of the Whole amendment excludes the services performed by persons licensed under either the Kansas Mortgage Business Act or the Uniform Consumer Credit Code from the practice of distressed property consulting.

The fiscal note prepared by the Division of the Budget on the introduced version of HB 2292 states that the League of Kansas Municipalities indicates that the bill would require officers to complete additional paperwork for identity theft reports. It is not known how frequently the request for these reports would be made and the amount of time it would take to complete them; therefore, the fiscal note continues, a precise

fiscal effect to cities cannot be estimated. Information regarding the effect of the bill has been requested from the Kansas Association of Counties; however, no response to the request had been received at the time this fiscal note was prepared. A revised fiscal note will be completed if specific information regarding the bill's fiscal effect is received. The Supplemental Note for SB 241 details the fiscal impact associated with implementation of the bill.

Fair Credit Reporting Act; security freeze