

KANSAS CREDIT ATTORNEYS ASSOCIATION

**Senate Bill No. 424
Testimony
Senate Judiciary Committee
March 8, 2016**

Chairman King and Members of the Senate Judiciary Committee:

I appreciate this opportunity to submit testimony to you on behalf of the Kansas Credit Attorneys Association in opposition to Senate Bill No. 424.

My name is Larry Zimmerman and I am a private practice attorney from Topeka. The members of the KCAA and I represent a broad array of individuals and businesses in civil actions across the state.

Senate Bill No. 424 presents some disconcerting uncertainty for members of the KCAA, our clients, and the consumers with whom we interact. Our shared concerns center around three primary issues:

1. Vague Requirements – While there are multiple layers of federal law and existing state law which require protection of consumers’ personal identifying information, there is no clear guidance on the new requirement in this bill to affirmatively destroy personal identifiers. The proposed language in the bill simply says, “...when such records are no longer needed...” but does not provide guidance on how that is to be determined. Such an open-ended requirement offers a field day of class action suits under the Kansas Consumer Protection Act for any and all businesses.
2. Immediate Negative Consumer Impact – I and other consumers benefit when a business obtains and retains consumer information. Doing so actually prevents identity theft and ensures that consumers’ information is preserved and protected together with their economic freedoms. My own experience is an example. I used to share my name with three other Topekans. One of those individuals obtained services from a local business that did not record any personal identifiers. When that individual defaulted on his obligation, I found that I was no longer able to get services. Because the business had no means to distinguish its old, defaulting customer from me, I was inadvertently impacted.

3. Delayed Negative Consumer Impact – I have a comparatively small office but field at least one call per week where a consumer is seeking information on a long closed account. These consumers have paid their accounts in full, all claims have been satisfied, and the need for retaining personal identifiers would appear to over. Nevertheless, the consumer contacts us because they need to clarify information for a background check, to clear up an erroneous credit bureau report, or to clear property incorrectly encumbered. Retention of personal identifiers has allowed us to confirm identity and provide prompt assistance in each case, every single week whether the call comes a year, five years, or even ten years after payment in full.

Our industry and our clients are readily aware of the need to secure the customer data we obtain. We take it seriously not only because it's good business and good customer service but also because we are consumers as well and expect our own data to be secured. We are concerned, however, that the open-ended language requiring affirmative destruction of data may actually harm consumers in unexpected ways, present myriad problems for businesses trying to comply, and ultimately aid only the trial lawyers poised to create a storm of class actions.

Thank you for your consideration and the opportunity to present written testimony to the Committee. I urge you to reject Senate Bill No. 424.

Larry Zimmerman
Legislative Committee
Kansas Credit Attorneys Association