

## MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Jeff Colyer-absent  
Senator Tom Holland- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Melissa Calderwood, Principal Analyst, Research Dept.  
Representative Raj Goyle (Attachment 1)  
Ron Gaches, Consumer Data Industry Association (Attachment 2)  
Brad Smoot, Explorer Information Services (Attachment 3)  
Maren Turner, State Director of AARP Kansas (Attachment 4)  
Lee Urban, Assistant State Attorney General (Attachment 5)  
Dave Hanson, Property Casualty Insurers Association of America (Attachment 6)  
Representative Clark Shultz (Attachment 7)  
Chris St. John (written only) (Attachment 8)

Others attending:

See attached list.

The Chair called the meeting to order.

Hearing on

**HB 2292 - Requests for security freeze on consumer reports.**

Melissa Calderwood, Principal Analyst, Research Department, gave an overview of the bill. Ms. Calderwood stated that current law allows victims of identity theft to place a security freeze on their consumer report. She said **HB 2292** would allow all consumers to place a security freeze on their consumer report. The bill details different ways a consumer can contact consumer reporting agencies. She said this bill also details the time frames agencies would have to temporarily lift a freeze upon the request of the consumer. She said agencies would be able to charge up to \$5 for placing, temporarily lifting, or removing each freeze; or replacing a previously requested personal identification number. She said agencies would not charge fees to victims of identity theft if the consumer provides a copy of a police document verifying the theft.

Representative Raj Goyle testified in support of **HB 2292**. Rep. Goyle said one of the main problems for victims of identity theft is freezing access to their credit reports so that the damage done by identity thieves can be stopped as soon as it's discovered. He said the current process for victims is cumbersome, requiring a police report and certified mail to file a complaint. He noted that this bill is an important step to simplify the procedures for victims of identity theft and it eliminates the \$10 fee normally charged by credit agencies for freezing the report and ensures that the process is done in a timely manner. He added that this bill also provides identical protections for consumers who are not victims of identity theft but wish to freeze their credit reports, although for these consumers, the fee will be \$5. (Attachment 1)

Ron Gaches, on behalf of the Consumer Data Industry Association, testified in support of **HB 2292**. Mr. Gaches said passage of this bill will allow anyone to place a security freeze on the credit account, whether or not they are a victim of identity theft. He said those who are a victim of identity theft or believe they may be a victim of identity theft are entitled to place a security freeze on their credit account for free, and to have a lift on the freeze for free. He said the only requirement is that they file a police report of the crime. He said

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

this bill tries to simplify the process for filing such a claim by allowing the report to be filed with the Attorney General's office. Mr. Gaches said his client proposes two amendments that are fundamental to support for the bill. He said the first change is on page two, lines 38-39 where they ask that the language be restored as it originally read, "relating to the extension of credit." He said restoring this language will ensure that any individual is still able to place a security freeze on their credit report to protect against identity theft without limiting the use of the consumer's consumer report or credit score for a wide variety of other legitimate uses. He said the second change is on page 4, line 14-16 where it asks that the phrase that begins with the last word on line 14, "and if received outside of these hours, by 6:15 a.m. the following day in the central time zone" be eliminated. ([Attachment 2](#))

Brad Smoot, representing Explore Information Services, testified in support of **HB 2292**. Mr. Smoot said Explore produces violation monitoring reports for insurance companies writing business in Kansas based on data received from the Kansas Department of Motor Vehicles. Mr. Smoot stated that this bill, as amended, would limit Explore's ability to provide this service to insurance companies in Kansas. He said as a consumer reporting agency, Explore and its customers would be adversely affected under the amended bill. He asked that the Committee consider the proposed amendment that would limit the freeze to credit information as originally proposed in **HB 2292**. ([Attachment 3](#))

Maren Turner, Director of AARP Kansas, testified in support of **HB 2292**. Ms. Turner stated that **SB 644** was brought to the attention of Chairperson Teichman who agreed that if all parties could agree on the contents of a bill that this committee would work the bill to expand consumer protections. She said since then, and after extensive collaboration between AARP Kansas, Consumer Data Industry Association, Lobbyist Ron Gaches, Kansas Attorney General Staff and a number of bipartisan Representatives supporting **HB 2292**, this expansion of the Kansas Security Freeze law is a good step forward to include protections for all Kansas consumers. ([Attachment 4](#))

Lee Urban, Kansas Assistant Attorney General, testified in support of **HB 2292**. Mr. Urban testified that this bill contains compromise language developed by the Attorney General's office and industry representatives. He said it is believed to be a good step forward for Kansas consumers. He said this bill modifies existing "security freeze" provisions to do the following: (1) Place a \$5 cap on fees for non identity theft victims for placing, lifting, or removing each freeze. He said this is a 50% reduction in fees for each action the consumer takes, compared to the existing fee structure. (2) It mandates 15 minute turnaround time from a consumer's request to temporarily lift the freeze so the consumer can access credit. He said this increases safe and secure accessibility to credit for consumers who have a security freeze on their credit reports. (3) It offers regular mail as an option to place a security freeze. He said if a consumer is without internet access, existing law only permits consumers to place a freeze by certified mail. He said eliminating the certified mail requirement reduces the unnecessary burden of going to the post office and decreases the cost to consumers. He said this provision is particularly important for the elderly who may not have access to the internet or have difficulty traveling to the post office. ([Attachment 5](#))

Dave Hanson, on behalf of Property Casualty Insurers Association of America, submitted written testimony in support of **HB 2292**. ([Attachment 6](#))

The Chair closed the hearing on **HB 2292**.

Hearing on

### **HB 2054 - Title insurance, annual audits.**

Melissa Calderwood gave an overview of the bill. She said under current law, title insurance agents submit an audit of their escrow, settlement and closing deposit accounts to the Kansas Insurance Department within 160 days of the calendar year close when the audit is required on either an annual, biennial, or triennial basis. She said an audit is considered current if dated within 12 months prior to the submission of the audit. She noted that **HB 2054** would require each title insurance agent to submit an annual audit within 30 days of the calendar year close and removes the provision regarding when an audit is considered current.

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on March 12, 2009, in Room 136-N of the Capitol.

Representative Clark Shultz testified in support of **HB 2054**. Rep. Shultz said current law requires abstract and title companies to have their escrow account audited according to a schedule based on the population size of the county in which they reside. He said by this schedule, a company in a county with a population less than 20,000 is required to have an audit completed once every three years. He said the company then has an additional six months before the completed audit report is required to be filed with the Kansas Department Insurance. He noted that this means there can be a period of up to three and one-half years between audit reports being filed for the smallest of companies. He said this bill makes three changes to current law. They are (1) Each company would be required to have their escrow account audited annually regardless of the population size of the county in which the company resides. (2) The completed audit report would be required to be filed with the Department of Insurance by the end of January each year. (3) The company would no longer be required to send a copy of the completed audit report to each of their underwriters. He concluded by stating that **HB 2054** is a common sense bill that takes action to further protect the consumer while not overburdening business. (Attachment 7)

Chris St. John, Kansas Land Title Association, presented written testimony in support of **HB 2054**. (Attachment 8)

The next meeting will be on call of the Chair.

The meeting was adjourned at 10:30 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE  
GUEST LIST**

DATE: 3-12-09

| NAME            | REPRESENTING         |
|-----------------|----------------------|
| Rod Gaches      | CDIA                 |
| Mark Jumbo      | AARP                 |
| EE Urban        | KS Atty Gen          |
| Matthew Goddard | HCJA                 |
| Ernie Kutzy     | AARP                 |
| Doug Wareham    | KBA                  |
| Kristin Black   | Federico Consulting  |
| Bud Smart       | Explore              |
| LARRY MAGILL    | KAIA                 |
| Bill Sneed      | State Farm           |
| Alex Kobyanetz  | P. I. A.             |
| Ryan Procharka  | clerk w/ Raj Gajle   |
| Kari Presley    | Kearney & Associates |
| Maree Carpenter | Brynt & Carpenter    |
| Halay Davoe     | KWA                  |
|                 |                      |
|                 |                      |
|                 |                      |

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

DOCKING STATE OFFICE BLDG.  
7TH FLOOR  
TOPEKA, KANSAS 66612  
(785) 296-7885  
goyle@house.state.ks.us



214 S. LOCHINVAR  
WICHITA, KANSAS 67207  
(316) 681-8133

**RAJ GOYLE**  
87TH DISTRICT

**TESTIMONY IN SUPPORT OF HB 2292**  
**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE**  
**MARCH 12, 2009**

Chairman Teichman, Vice Chairman Brownlee, Ranking Member Steineger, and Committee Members:

As technology evolves so does crime. Identity theft—when a person uses another's identity to steal money or gain other benefits—has exploded in recent years. The Federal Trade Commission has described identity theft as the fastest growing crime in the nation. One study estimated the cost to the U.S. economy from identity theft to be in excess of \$53 billion annually.

The problem is also growing rapidly here in Kansas. Federal data from 2007 indicated 1,694 *reported* cases of identity theft, a number that very likely undercounts the true number of victims as many people fail to report the occurrence of the crime. In Sedgwick County in 2008, consumer fraud experts reported an increase in identify theft of nearly 30% from the previous year.

One of the main problems for victims of identity theft is freezing access to their credit reports so that the damage done by identity thieves can be stopped as soon as it's discovered. The current process for victims is cumbersome, requiring a police report and certified mail to file a complaint. This bill is an important step to simplify the procedures for victims of identity theft. It eliminates the \$10 fee normally charged by credit agencies for freezing the report and ensures that the process is done in a timely manner.

This bill also provides identical protections for consumers who are not victims of identity theft but wish to freeze their credit reports, although for these consumers, the fee will be \$5 (again, reduced from the normal \$10 fee).

This bill is supported by all interested parties—the Attorney General, AARP, and the credit industry—which reflects the widespread recognition that something must be done to help consumers with these issues. This bill will make a difference to thousands of Kansans who are struggling with their credit and identity theft.

The bill enjoys the strong support of the House, passing unanimously (119-0) on February 20, 2009. Thank you and I look forward to any questions you may have.

  
Rep. Raj Goyle

*FI & I Committee*  
*3-12-09*  
*Attachment 1*



# GACHES, BRADEN & ASSOCIATES

Government Relations & Association Management

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

**Testimony of Consumer Data Industry Association  
Regarding HB 2292 – Security Freeze on Consumer Reports  
Submitted by Ron Gaches  
Senate Financial Institutions and Insurance Committee  
Thursday, March 12, 2009**

Thank you Senator Teichman for this opportunity to speak with your committee regarding HB 2292, a proposal to expand the opportunity for consumers to obtain a security freeze on their financial credit files. I appear on behalf of the Consumer Data Industry Association (CDIA), the trade group for the credit reporting industry and their industry partners.

HB 2292 is the result of discussions that have taken place between the AARP, Attorney General's Office and CDIA following the Interim Judiciary Committee hearing on this topic last fall. CDIA has agreed to the terms of this bill with a couple of provisions I'll describe in a moment. Key issues of the bill for CDIA include:

- Permissible fees for placing, lifting and removing a security freeze
- The time limits for placing, lifting and removing a security freeze
- The manner in which a security freeze can be placed or lifted
- Who is entitled to place a security freeze on a credit file
- Reasonable protections against frivolous lawsuits for failure to comply with a deadline for legitimate reasons
- Maintaining conformity with the federal Fair Credit Reporting Act

Passage of this bill will allow anyone to place a security freeze on the credit account whether or not they are a victim of identity theft or not. Those who are a victim of identity theft or believe they may be a victim of identity theft are entitled to place a security freeze on their credit account for free, and to have a lift on the freeze for free. The only requirement is that they file a police report of the crime. The bill tries to simplify the process for filing such a claim by allowing the report to be filed with the Attorney General's office.

The bill provides that others desiring to place a security freeze on their credit file may do so for a maximum fee of \$5. This fee is consistent with the fee structure in most other states. The average fee allowed by the various states for this service is between \$5 and \$10. CDIA has agreed to a \$5 fee cap in Kansas.

There are two amendments that we propose that are fundamental to our support for the bill.

*FI&I Committee  
3-12-09  
Attachment 2*

The first change is on page two, lines 38-39. We ask that you restore the language that originally reads "relating to the extension of credit." Restoring this language will ensure that any individual is still able to place a security freeze on their credit report to protect against I.D. theft without limiting the use of the consumer's consumer report or credit score for a wide variety of other legitimate uses including: background checks for state and local licensure, job hiring decisions, identification by law enforcement and private security, insurance evaluations, and others.

The second change is found on page 4, line 14-16. We ask that you eliminate the phrase that begins with the last word on line 14 ... "and if received outside of these hours, by 6:15 a.m. the following day in the central time zone."

When we originally agreed to the 15-minute lift language we agreed to incorporate the language from Utah, which has become the model for several states. This language is not found in Utah or any other state that we know of. We believe it is unreasonable to expect a 15-minute lift be executed by 6:15 a.m. in the morning following a request made in the middle of the night. We believe it is entirely reasonable to require that a 15-minute lift be requested during normal business times, which the bill sets at 6:00 a.m. to 9:30 p.m. in the Central Time Zone.

CDI A urges your support for the bill with these amendments. Thank you Senator Teichman and I'll respond to any questions.

**BRAD SMOOT**  
ATTORNEY AT LAW

800 SW JACKSON, SUITE 808  
TOPEKA, KANSAS 66612  
(785) 233-0016  
(785) 234-3687 (fax)  
bsmoot@nomb.com

10200 STATE LINE ROAD  
SUITE 230  
LEAWOOD, KANSAS 66206

Statement of Brad Smoot, Legislative Counsel  
Regarding HB 2292  
Senate Financial Institutions and Insurance Committee  
March 12, 2009

Madam Chair and Members of the Committee:

Explore Information Services is an insurance support organization that assists insurance companies in monitoring drivers for violation activity in 35 states. Explore operates in strict compliance with the Drivers Privacy Protection Act (DPPA) and the Fair Credit Reporting Act (FCRA).

Explore produces violation monitoring reports for insurance companies writing business in Kansas based on data received from the Kansas Department of Motor Vehicles. Explore currently pays over \$1.2 million dollars each year to purchase this data from the State of Kansas for access to public motor vehicle records for compilation and resale to auto insurers.

HB 2292, as amended, would limit Explore's ability to provide this service to insurance companies in Kansas. Under the bill, a consumer could place a security freeze on its consumer report and if the consumer were to receive a new driving violation such as a DUI or a speeding ticket, Explore would be unable to provide that information to the insurance company. The inability to provide this information to the insurance company encourages unfair premium assignment as our process enables insurance companies to identify bad drivers and more appropriately assign "premium to risk", mitigating cost spreading of bad driver risk to good drivers.

As a consumer reporting agency, Explore and its customers would be adversely affected under the amended bill. Please consider the proposed amendment that would limit the freeze to credit information as originally proposed in HB 2292.

Thank you.

*FI & I Committee  
3-12-09  
Attachment 3*





AARP Kansas  
555 S. Kansas Avenue  
Suite 201  
Topeka, KS 66603

T 1-800-8-3619  
F 785-232-8259  
TTY 1-877-434-7598  
www.aarp.org/ks

March 12, 2009

The Honorable Ruth Teichman, Chair  
Senate Financial Institutions and Insurance Committee

HB 2292 – Consumer Protection--Credit Freeze

Good morning Chairwoman Teichman. My name is Maren Turner and I am the Director of AARP Kansas. AARP is a nonprofit, nonpartisan membership organization dedicated to making life better for people 50 and over. AARP has more than 40 million members nationwide and more than 375,000 members in Kansas. We provide information and resources and engage in legislative, regulatory and legal advocacy. We are here today in support of HB 2292. We thank you for your interest in this important issue and for the opportunity to appear before you today.

A November 2007 AARP study found that 81% of older consumers are concerned about becoming a victim of identity theft. They have good reasons to be concerned. Every day, an average 27,000 Americans have their identities stolen. In one-third of those cases, crooks use the information to open new accounts in the victim's name.

The Kansas legislature enacted identity theft protections several years ago, including a protection that allows victims of identity theft to place a security "freeze" or limitation on access to their personal information, free of charge, as one way to help prevent them from becoming victims of theft again. Today, of the thirty nine states that have enacted identity theft laws, we are only one of four states that limits the freeze to identify theft victims, which means a consumer would have to become a victim before he or she can freeze access to his or her account.

During the 2008 legislative session AARP proposed SB 644, an expansion of the freeze bill that would allow all Kansas consumers to place a security freeze at reasonable cost.

*FI&I Committee  
3-12-09  
Attachment 4*

Our intentions were to ensure that Kansans could benefit from needed protections found in many other states across the country.

SB 644 was brought to the attention of the Chairperson Tiechman, who agreed that if all parties could agree on the contents of a bill that this committee would work the bill to expand these consumer protections. Since then, and after extensive collaboration between AARP Kansas, Consumer Data Industry Association lobbyist Ron Gaches, Kansas Attorney General staff and a number of bipartisan Representatives supporting HB 2292, this expansion of the Kansas Security Freeze law is a good step forward to include protections for all Kansas consumers.

HB 2292 passed out of the House of Representatives on a vote of 119-0. Our intentions are to ensure that Kansans can benefit from needed protections found in many other states across the country. Specifically, HB 2292 will:

- **Allow all consumers to place a freeze on their credit.**

*The current law extends this right only to consumers who have been victimized by identity thieves. HB 2292 will help to reduce the number of victimizations by allowing consumers to be good advocates on the front end.*

- **Set a reasonable fee structure for consumers to impose a freeze.**

*An October 2007 AARP Study "Barriers to the Use of Security Freeze by Older Consumers" found that older consumers are sensitive to the cost of placing and thawing a security freeze and are less likely to use a freeze when either of these is expensive. We have agreed to a \$5 fee for the initial freeze, a \$5 dollar fee for temporarily lifting the freeze, \$5 fee for removing the freeze permanently, and no fee for replacing a lost pin number.*

- **Allow consumers to request a freeze by regular mail as well as by certified mail.**

*The current law limits such requests to certified mail, which has a chilling effect on the ability of the consumer who may not have access to postal facilities.*

- **Allow consumers to file a police report in the jurisdiction where the identity theft took place.**

*This allows 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.*

- **Allow credit bureaus to use electronic methods to help expedite requests.**

*The same AARP report cited above found that older consumers believe the procedures required to place a security freeze at the national credit bureaus to be difficult, and they want to be able to thaw the security freeze quickly so they can establish new credit quickly. Bureaus may develop and implement a temporary lifting and removal of a freeze in an expedited manner (e.g. 15 minutes for a temporary lift).*

AARP Kansas does support the following two amendments offered today by Mr. Gaches:

- 1) On page two, lines 38-39 ... restore the phrase “relating to the extension of credit.” Deleting that language as the House Committee did prohibits the use of consumer report of scores for an assortment of other legitimate uses of this

information pertaining to employment, law enforcement, security clearances, licensure, insurance, etc. that we do not want to restrict.

- 2) delete the language on page 4, line 14 beginning with “and” through and including the word “zone” on line 16. This brings the bill back in line with every single other freeze state in the United States, including Montana, Nebraska, Missouri, Utah, Colorado, and Oklahoma.

Therefore, we support HB 2292, with the above amendments. We are fully aware that the three credit bureaus currently will allow any consumer to freeze his/her credit for a costly fee. For example, a couple could have an outlay of \$60 to freeze their account. These costs discourage many older adults from applying the freeze, and there are no guarantees that bureaus will continue to allow nonvictims access to their account. We believe that HB 2292 will provide affordable fees and protections for consumers and continue to allow the data industry the ease of providing these protections to all Kansans.

We respectfully request your support of HB 2292. Thank you for your consideration.



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

STEVE SIX  
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
WWW.KSAG.ORG

Senate Financial Institutions & Insurance Committee  
Assistant Attorney General Lee Urban  
Consumer Protection Division  
March 12, 2009

Madame Chairperson and members of the committee, thank you for allowing me to testify today on HB 2292.

We rise in support of HB 2292. This bill contains compromise language developed by the Attorney General's office and industry representatives. We believe it is a good step forward for Kansas consumers. HB 2292 modifies existing "security freeze" provisions to do the following:

1. Places a \$5 cap on fees for non identity theft victims for placing, lifting, or removing each freeze. This is a 50% reduction in fees, for each action the consumer takes, compared to the existing fee structure.
2. Mandated 15 minute turnaround time, from a consumer's request, to temporarily lift the freeze so the consumer can access credit. This increases safe and secure accessibility to credit for consumers who have a security freeze on their credit reports.
3. Regular mail as an option to place a security freeze. If a consumer is without internet access, existing law only permits consumers to place a freeze by certified mail. Eliminating the certified mail requirement reduces the unnecessary burden of going to the post office and decreases the cost to consumers. This provision is particularly important for the elderly that may not have access to the internet or have difficulty traveling to the post office.

Thank you for your time and I look forward to answering any questions.

*FI&I Committee  
3-12-09  
Attachment 5*

**DAVID A. HANSON**  
Legislative Counsel  
800 SW Jackson – Suite 900  
Topeka, Kansas 66612  
785-232-0545

**Testimony on HB 2292**  
**March 12, 2009**

TO: **Senate Financial Institutions and Insurance Committee**

RE: HB 2292

Madam Chairwoman and Members of the Committee:

Thank you for this opportunity to present information to the Committee on behalf of PCI, the Property Casualty Insurers Association of America, which has over 1,000 member insurance companies in the U.S., and whose member companies have a significant business presence in Kansas writing over 40% of the property-casualty premiums in Kansas.

We concur with the amendments proposed by the Consumer Data Industry Association and feel that these amendments are necessary to allow reasonable use of a consumer's credit information for legitimate purposes, including insurance evaluations, and also to allow reasonable time constraints in connection with the lifting of a security freeze.

We believe these proposed amendments will help clarify the provisions of the Bill and allow more effective application.

Respectfully,

DAVID A. HANSON

*FI & I Committee*  
*3-12-09*  
*Attachment 6*



CLARK SHULTZ  
CHAIRMAN, INSURANCE COMMITTEE

March 12, 2009

Testimony in favor of HB 2054

Chair Teichman and members of the committee:

Current law requires abstract and title companies to have their escrow account audited according to a schedule based on the population size of the county in which they reside. By this schedule a company in a county with a population less than 20,000 is required to have an audit completed once every three years. The company then has an additional 6 months before the completed audit report is required to be filed with the Kansas Department of Insurance. This means that there can be a period of up to 3 ½ years between audit reports being filed for the smallest of companies.

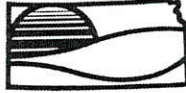
This bill makes three changes to current law:

1. Each company would be required to have their escrow account audited annually regardless of the population size of the county in which the company resides.
2. The completed audit report would be required to be filed with the Department of Insurance by the end of January each year.
3. The company would no longer be required to send a copy of the completed audit report to each of their underwriters.

Across the country defalcations are occurring at a greater frequency. States are responding by passing updated laws regulating abstract and title companies, many times enacting very burdensome and overreaching laws. HB 2054 is a common sense bill that takes action to further protect the consumer while not overburdening business.

Thank you for the opportunity to testify. I ask for your favorable recommendation on HB 2054.

*FI & I Committee  
3-12-09  
Attachment 7*



**KANSAS LAND TITLE ASSOCIATION**  
**7321 N.W. Rochester Rd., Topeka, Kansas 66617**  
**WWW.KLTA.ORG**

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To: Senate Financial Institutions and Insurance Committee  
From: Chris St. John, KLTA Vice President and Legislative Chair  
Date: March 12, 2009  
Subject: HB 2054 – Testimony in Support of House Bill 2054

Chairman Teichman and members of the Senate Financial Institutions and Insurance Committee, thank you for the opportunity to offer written testimony on behalf of the Kansas Land Title Association (KLTA). KLTA represents 156 title companies throughout Kansas.

The Kansas Land Title Association supports House Bill 2054 as a means of further protecting consumers from irregularities in escrow and settlement practices of licensed title insurance agents in the State of Kansas.

Respectfully submitted,

Chris St. John  
Kansas Land Title Association  
Vice President and Legislative Chair

*FI&I Committee  
3-12-09  
Attachment 8*