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March 13, 2018

The Honorable Jeff Longbine
Chair, Senate Financial Institutions & Insurance Committee
Topeka, KS 66612

Re: Opposition to H.B. 2580, Concerning fees consumer reporting agencies may charge for credit freezes.

Dear Chairman Longbine:

I write on behalf of the Consumer Data Industry Association (CDIA) to respectfully oppose H.B. 2580 on fees for credit freezes. We realize that the hearing falls on the heels of an announcement by Equifax that, during a criminal hack, data on approximately 146 million consumers had been compromised. Yet, requiring credit bureaus to provide free credit freezes – even in the absence of a breach – is not appropriate.

CDIA is an international trade association, founded in 1906, of more than 130 corporate members. Its mission is to enable consumers, media, legislators and regulators to understand the benefits of the responsible use of consumer data which creates opportunities for consumers and the economy. CDIA members provide businesses with the data and analytical tools necessary to manage risk. They help ensure fair and safe transactions for consumers, facilitate competition and expand consumers' access to a market which is innovative and focused on their needs. CDIA member products are used in more than nine billion transactions each year.

We oppose the bill for several reasons. First, existing law already offers consumers many free credit services. Second, a credit freeze should not be a consumer's first line of defense. Third, free freezes make sense for identity theft victims and may be appropriate for certain vulnerable populations, but free freezes are not appropriate across the board for all consumers.

1. Present law and practices:

- Under federal and state law consumers are entitled to:
 - One free credit report per year, per credit bureau.
 - Free credit reports for identity theft victims, which can be as many as one free credit report, per credit bureau, every 90 days.
 - Free credit freezes for identity theft victims.
- Under business practices, most breached entities provide to consumers free credit monitoring that often lasts for one year.¹

2. A credit freeze should not be a consumer's first line of defense

By requiring credit bureaus to offer free credit freezes, bills to lower or eliminate fees imply that a first response for consumers who receive breach notices is to freeze their credit files. While a freeze may be the right response for a victim of identity theft, or for a consumer who is no longer credit active, a freeze is a severe remedy to what might not even be an ailment. The FTC agrees. The Federal Trade Commission wrote in a Sept. 17, 2017 [blog](#) posting that

credit freezes are a powerful tool, but it's not a one-size-fits-all thing. If consumers are about to apply for new credit — for example, a mortgage, car loan, or student loan — they should consider the cost and potential hassle of unfreezing and refreezing each time. But for people who won't need new credit anytime soon, a credit freeze may be a good choice.²

For most consumers who are concerned about the possibility of becoming a victim of identity theft, the better solutions are a fraud alert, as provided by federal law. Another good option for consumers is to consider a credit monitoring service. A fraud alert is a free service, required by federal law, where a "business must try to verify a consumer's identity before extending new credit."³ The FTC has noted that "an initial fraud alert can make it harder for an identity thief to open more accounts in your name."⁴ Under the Fair Credit Reporting Act (FCRA), a consumer can obtain an initial alert that lasts for 90-days and can be renewed for an unlimited period. A consumer

¹ Some of the more recent and largest breaches involving financial information included as consumer assistance, credit monitoring where the costs were absorbed by the breached entity. Equifax offered free credit monitoring through TrustedID Premier; Target offered free credit monitoring through ProtectMyID; Sony offered free credit monitoring through AllClear ID Plus; and Home Depot offered free credit monitoring through IdentityGuard Essentials. TJX and Anthem also offered free credit monitoring.

² *Fraud alerts vs. credit freezes: FTC FAQs*, Fed. Trade Comm., Sept. 17, 2017, <https://www.ftc.gov/news-events/blogs/business-blog/2017/09/fraud-alerts-vs-credit-freezes-ftc-faqs>.

³ *Id.*

⁴ *Place a fraud alert*, FTC, <https://www.consumer.ftc.gov/articles/0275-place-fraud-alert>.

that is a victim of identity theft can have an extended alert placed on the credit report and that extended alert lasts for seven years.⁵

From our experience, when consumers understand the options in protecting their credit, from fraud alerts to a freeze, most choose to start with a 90-day fraud alert. We believe that fraud alerts are better options for those who want to be cautious and monitor their credit without limiting or cutting off access to their credit report. The Consumer Financial Protection Bureau (CFPB) agrees and recently recommended fraud alerts to those concerned about protecting their personal information.⁶

3. Fees for freezes are appropriate for non-ID theft victims

In Kansas, consumers who are victims of identity theft can obtain free credit freezes, lifts and removals. Under federal and state law and business practices, consumers are entitled to many credit reports, credit monitoring, and credit freezes for free.

Credit bureaus are not the breached entity in most cases⁷ and they should not be forced to pay to absorb the costs of a breach caused by someone else. States do not require a burglar alarm company to give away services for thefts in a neighborhood. A \$5.00 fee, even multiplying that to \$15.00 total, is often less expensive than most doctor and pharmacy co-pays.

Credit freeze fees are low and are not profit centers. The administrative fee helps to cover the costs of providing the freeze service to consumers, including the maintenance of the technology to implement the freeze system.

Conclusion

We realize that in the wake of the Equifax hack, consumers are looking for ways to protect themselves from becoming victims of identity theft because of the Equifax hack or other data breaches. However, requiring credit bureaus to provide free

⁵ 15 U.S.C. § 1681c-1.

⁶ Consumer Financial Protection Bureau, *Top 10 ways to protect yourself in the wake of the Equifax data breach*, Sept. 18, 2017, <https://www.consumerfinance.gov/about-us/blog/top-10-ways-protect-yourself-wake-equifax-data-breach/>.

⁷ The largest breaches in history have been, in numerical order of consumers affected, Yahoo!, Adult Friend Finder, eBay, Equifax, Heartland Payment Systems, Target, TJX (TJ Maxx), JP Morgan, U.S. Office of Personnel Management, and Sony's PlayStation Network. Taylor Arming, *The 16 biggest data breaches of the 21st century*, CSO, Oct. 11, 2017, <https://www.csoonline.com/article/2130877/data-breach/the-16-biggest-data-breaches-of-the-21st-century.html>.

credit freezes is not appropriate. Consumers are entitled to so many free credit reports, credit monitoring, and other services that this bill is one free freeze too far. The fee for freezes is modest for all consumers that do not otherwise qualify for free freezes. The modest fee is not a profit center for credit bureaus, but represents the costs of administering a system established for consumer convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Ellman', with a long horizontal flourish extending to the right.

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs