

SUBJECT: Credit report protection during a pending divorce decree

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 4 ayes — Villarreal, Flynn, Anderson, Burkett
0 nays
3 absent — Laubenberg, Longoria, Phillips

WITNESSES: For — None
Against — Robert E. Johnson, Jr., Consumer Data Information Industry

DIGEST: HB 1575 would prevent a consumer reporting agency from including information on a consumer report about a transfer of property or a debt incurred by a spouse while a suit for divorce or annulment was pending that could subject the other spouse to liability. To prevent the reporting agency from including this information, the consumer would have to provide a copy of the court order making a finding that the transaction was intended to injure the consumer's rights.

The bill would take effect September 1, 2013.

SUPPORTERS SAY: HB 1575 would protect a person's credit during divorce proceedings. While current law protects a person from the monetary responsibility for debt incurred or property transferred by his or her spouse during divorce proceedings, that protection does not extend to the person's credit. The bill would remedy this problem by prohibiting a consumer reporting agency from including on a person's report any information about a transaction by the consumer's spouse that a court determined was intended to hurt the consumer's rights.

Contrary to what opponents argue, HB 1575 would not put the reporting agency in the position of arbitrating a dispute between spouses. The bill merely would require the reporting agency to accurately report a determination already made by a court.

OPPONENTS
SAY:

HB 1575 is well intentioned, but is preempted by federal law, would be inconsistent with established business practices, and the problem it seeks to fix should be handled in the courts.

Consumer reporting agencies are objective providers of factual information and should not be placed in the position of arbitrating between two spouses and their creditors about spousal intent, which could make the reporting agency liable because of an incorrect judgment. That is a job for the courts, not a private business.

The bill is preempted by federal law. The federal Fair Credit Reporting Act (FCRA) limits states from enacting legislation in this area that conflicts with federal statute. The FCRA requires reporting agencies to report everything they have on a consumer to those consumers, yet HB 1575 would prevent certain truthful and lawfully correct information from appearing on a consumer's credit report. This would be an impermissible conflict under the FCRA.

During a pending divorce, both spouses should have temporary orders dictating spousal rights regarding money and debt. There can and should be court-imposed penalties for violating these orders instead of placing the CRA in the middle of the dispute.