

HB 959 -- Financial Services

Sponsor: Luetkemeyer

This bill revises a variety of provisions regarding financial services.

The bill expands the College Tuition Savings Plan (also known as a "529 Plan") by allowing Missouri residents to use any qualified 529 Plan from any state or political subdivision. Currently, Missouri residents can use only the state-sponsored plan, known as the Missouri Higher Education Savings Program. The bill also establishes an additional savings plan, to be known as the Missouri Higher Education Deposit Program, which allows any bank in Missouri to establish savings accounts as part of a 529 Plan. State employees may request automatic payroll deductions for deposit into these accounts. The bill requires the deposit program to be administered in the same fashion as the current savings program. The provisions governing this program will expire six years from the effective date of the bill.

The bill creates a cause of action for the deceptive use of the name of another financial institution. Any financial institution may sue any person or entity that creates a misleading advertisement or solicitation by including the name of the financial institution without consent. A plaintiff prevailing in this type of action will be entitled to \$10,000 in statutory damages, plus any proven actual damages; attorney fees; and court costs.

The bill makes several changes to the law governing how and when a lender must provide a deed of release when a borrower has paid off a mortgage. Current law requires the lender to issue a release to the borrower within 15 business days. The bill lengthens this time frame to 45 days. The bill also allows the lender to have the document recorded, rather than sending it to the borrower. If the document cannot be recorded for any reason, the lender will have an additional 60 days to file a document that can be recorded. Finally, the bill limits the damages that may be awarded for noncompliance to \$300 per day; \$10,000 in the aggregate; or 10% of the amount of the loan, whichever is less.

The bill makes several changes in the laws governing small loans. The bill:

(1) Increases the maximum amount which may be charged as an expediter fee from \$6 to \$15. The expediter fee is money collected by a third party to expedite the retrieval of a debtor's motor vehicle title from the Department of Revenue;

(2) Repeals a provision allowing a \$10 charge as a late payment fee; and

(3) Allows lenders to collect a fee in advance for allowing the debtor to defer monthly loan payments on loans of \$600 or more. The fee may be between \$25 to \$50, but not more than 10% of the loan payments deferred. This provision does not apply to pre-computed loans.

Finally, the bill makes several changes to the crime of identity theft. The bill:

(1) Makes it a class A misdemeanor when the identity theft results in the theft or appropriation of credit, money, goods, services, or other property valued at less than \$500. Current law sets a penalty of six months in jail for a first offense and does not refer to the value of the stolen property;

(2) Makes it a class D felony when the value of the stolen property is more than \$500 but does not exceed \$1,000;

(3) Makes it a class C felony when the value of the stolen property is more than \$1,000 but does not exceed \$10,000;

(4) Makes it a class B felony when the value of the stolen property is more than \$10,000 but does not exceed \$100,000;

(5) Makes it a class A felony when the value of the stolen property is exceeds \$100,000;

(6) Makes the identity thief liable to the victim for civil damages of up to \$5,000 per incident or three times the amount of actual damages, whichever is greater;

(7) Allows the victim to seek a court order restraining the identity thief from future acts that would constitute identity theft. In these actions, the court may award reasonable attorney fees to the prevailing party;

(8) Clarifies that the estate of a deceased person may pursue civil remedies when the estate is a victim of identity theft;

(9) Sets venue requirements for civil suits regarding identity theft, sets a limitation on civil suits at three years, and clarifies that a criminal conviction is not a prerequisite for a civil claim;

(10) Clarifies that identity theft does not include a minor's misrepresentation of age by using an adult person's identification;

(11) Makes a second offense a class D felony when the value of the property is less than \$500; and

(12) Creates the crime of trafficking in stolen identities, a class B felony, which is evidenced by possession of five or more identification documents.