

**1999 SENATE GOVERNMENT AND VETERANS AFFAIRS**  
**SB 2313**

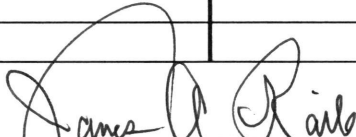
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2313

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date January 28, 1999

Tape Number	Side A	Side B	Meter #
2		X	3055-5500
Committee Clerk Signature 			

Minutes: CHAIRMAN KREBSBACH opened the hearing on SB 2313. MR. PARREL D. GROSSMAN with the Attorney General's Office introduced the bill to the committee. He indicated the Attorney General's Office supports the bill. A copy of his testimony is attached. He wanted the committee to note that the AG's office concurs with an amendment that is being offered by the Department of Banking. CHAIRMAN KREBSBACH-Have you had any conversation with anyone in regard to the open law that is in objection to what you propose here? MR. GROSSMAN-No I have not. Jack McDonald's here and I worked with him in getting this legislation drafted so I am not aware of any concerns. We would gladly address those. Certainly the Attorney General is always opposed to closing up any information but in this particular circumstance we just had enough concerns and we see enough negative impact for consumers that we thought this particular legislation was necessary and useful. SENATOR STENEHJEM-I guess I didn't realize, the names of people who have made complaints, they are also, consumer

complaints are public. MR. GROSSMAN-That is correct. CHAIRMAN KREBSBACH asked if there were further questions for Mr. Grossman. None were offered. JACK

MCDONALD-Representing the ND Newspaper and Broadcasters Association indicated ordinarily they do oppose bills that seek more confidentiality. At the same time we realize there are times when you do need this confidentiality. This language is almost exactly the exact same language that is in the open records law now that precludes to public employees. This information in a public employees record in the capitol or anyplace else is confidential right now and we are assured that the information about the complaint, as far as I am concerned that is who makes the complaint, who the business is, what the nature of the complaint is, that will still be public. But if somebody comes in and says they are misusing my Visa account number, and gives that account number, we're not interested in that account number and it will not be available to the public. We have no real concerns about that. I'm not really testifying for the bill but we are kind of neutral.

SENATOR DEMERS-Which public employee information, personnel records? JACK MCDONALD-In any, the law right now says that the information concerning any public employee that is listed in this building is confidential. Street address, phone number, bank account number, etc. It doesn't concern me that they want to keep checking account numbers confidential and your social security number, but that social security number is on my check and right now I've given that out 15,150 times so it's not exactly a hidden number.

DAVID CLINTON-Assistant Banking Commissioner appeared to testify in support of SB 2313. A copy of his written testimony is attached. He offered an amendment which he considered simple and is designed to protect the consumer. CHAIRMAN KREBSBACH-When talking in

terms of consumer reports. MR. CLINTON-Madam Chairman what we mean is what are more

commonly referred to as credit reports. SENATOR STENEHJEM-The Fair Credit Reporting Act is a Federal Act. Do we have a state counterpart of that? MR. CLINTON-No. SENATOR STENEHJEM-So shouldn't it say consumer report as defined in section so and so of the Fair Credit Reporting Act? MR. CLINTON-Perhaps that might be best but on the other hand where would you look for guidance if you were looking to interpret. But at least now we have this disclosed in the record of this committee of what we are looking for now. So that would be helpful now. SENATOR STENEHJEM-My second minor point is what we just had is a simple amendment. The word "number" appears twice on line 11, you said after the word number insert consumer report. MR. CLINTON-I was looking at the second word number. CHAIRMAN KREBSBACH-It still is a simple amendment is not Senator Stenehjem? CHRIS EDISON-General Council for the Insurance Department, I'm here on behalf of Commissioner Pomeroy testing on behalf of SB2313. As Mr. Grossman testified earlier in the course of investigating consumer complaints there can often times be personal financial information or social security number as a matter of fact social security number is a part of our complaint form that would otherwise be public information for anyone that wanted to make an open records request from the department that currently we would have to provide if the request was made. We think that SB2313 strikes an nice compromise in allowing the insurance department to protect certain consumer information that would not be appropriately disclosed in some circumstances. Yet by making an exempt record still allows us to be able to disclose that information where it is necessary in order to be able to adequately investigate a particular complaint. I offer this testimony in support of the bill. There were no questions. There was no further testimony offered in support of, in neutral position, or in opposition to SB 2313. The



Page 4

Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB2313

Hearing Date January 28, 1999

hearing was closed at this time. SENATOR STENEHJEM moved the amendment which says on page 1 line 11 after the second word "number" insert "consumer report". With the proviso that if a definition is needed we will look at the fair credit reporting act which is a federal enactment to make a creditor realize we are talking about credit records. The motion was seconded by SENATOR DEMERS. There was no further discussion of the amendment. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. A motion for DO PASS AS AMENDED was made by SENATOR STENEHJEM, seconded by SENATOR DEMERS. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, 0 ABSENT or NOT VOTING. SENATOR DEMERS volunteered to carry the bill. Following the vote the committee was adjourned for the day.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2313

North Dakota Department of Banking and Financial Institutions

January 28, 1999

*2nd word number*  
Page 1, line 11, after "number" insert ", consumer report"

Renumber accordingly.

Date: 1/28/99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2313

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amend

Motion Made By Sen. W. Stenehjem Seconded By Sen. Demers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 1/28/99  
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2313

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Sen. W Stenehjem Seconded By Sen. DeMers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator DeMers

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2313: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2313 was placed on the Sixth order on the calendar.

Page 1, line 11, after the second "number" insert ", consumer report"

Renumber accordingly

**1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2313**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2313

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-4-1999

Tape Number	Side A	Side B	Meter #
1	X		27.0 - 35.8
1		X	31.2 - 34.6
Committee Clerk Signature <i>James J. McWilliams</i>			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing on March 4, 1999.

Summary of the Bill: Relating to personal and financial information submitted to a state agency in a consumer complaint.

Testimony in Favor:

Senator St. Aubyn, Appeared before the committee to introduce the bill and submitted written testimony which he read in it's entirety (**please refer to his testimony**).

Parrell Grossman, Attorney Generals Office submitted written testimony which he read in it's entirety (**please refer to his testimony**). Personal and financial information given to state agency in a consumer complaint does not need to be disclosed.

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2313

Hearing Date 3-4-1999

Representative Klemin, Releasing information to the party that is subject to this, does this preclude this?

Grossman, No it does not. It gives us the discretion and option to provide the information.

Representative Klein, The key word here is exempt rather than confidential?

Grossman, That is correct.

Chris Edison, ND Insurance Department supports this legislation.

Jack McDonald, ND Newspaper Association submitted testimony in support.

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SB 2313.

Committee Action:

Representative Hawken, Made a motion for a Do Pass.

Representative Grande, Seconded the motion.

Motion Passes: Do Pass **14-0-1**.

Representative Devlin, Is the carrier for the bill.



Date: 3-4-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2313

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By HAWKEN Seconded By GRANDE

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN	✓				
REP. FAIRFIELD	✓				
REP. GORDER					
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment DEVLIN

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 4, 1999 11:11 a.m.

Module No: HR-39-4010  
Carrier: Devlin  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2313, as engrossed: Government and Veterans Affairs Committee (Rep. Klein, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2313 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**

**SB 2313**

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE  
KAREN K. KREBSBACH, CHAIRMAN  
JANUARY 28, 1999

TESTIMONY BY  
PARRELL D. GROSSMAN  
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION  
OFFICE OF ATTORNEY GENERAL  
IN SUPPORT OF  
SENATE BILL NO. 2313

Madam Chairman and members of the Senate Government and Veterans Affairs Committee. I am Parrell Grossman, Director of the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General and the Consumer Protection Division support Senate Bill No. 2313.

This bill provides that personal and financial information submitted to an agency as part of a consumer complaint, or gathered pursuant to an investigation of a consumer complaint, is exempt from the mandatory disclosure of such information pursuant to "open records" law.

Consumer complaints filed with the Consumer Protection Division necessarily contain the complainants' and other interested persons' financial information such as bank account numbers, credit card numbers and expiration dates, etc. Financial information of the affected business also is included in many instances. Such financial information often is also gathered from both complainants and businesses during the course of an investigation.

It is usually very necessary for the Consumer Protection Division to receive and have access to such information for purposes of the complaint or investigation. However, some of the information is entirely gratuitous, such as a social security number, bank account number, credit card account number, etc. The information often is submitted unnecessarily, accidentally or is otherwise in our possession simply because it is on a document or is part of other information submitted or gathered. For instance, check blanks sometimes include social security numbers on the face of the check, as well as the account number.

There generally is no reason such information should be available to or disclosed to the public under the open records law. In most instances the release of such financial information is or will be harmful to the complainant or business. It would be an unfortunate and unintended result if in the process of trying to assist and protect the consumers or businesses, we released financial information that could be misappropriated or otherwise used in a manner harmful to the parties affected.

Identity theft, or the fraudulent use of personal identifying information, is rapidly becoming a huge problem in this country, as well as a serious problem for our North Dakota citizens. Identity theft occurs when someone uses your name and usually your social security number to obtain credit, loans, employment, health care services, rentals, mortgages, and maybe even file bankruptcy in your name.

We do not want to give these unscrupulous individuals any more tools, opportunities or information to commit identity theft or any other crimes by providing them access to personal or business financial information contained in a state agency file.

This legislation will still require open records disclosure of relevant public information such as the name of the complainant, the name, address and telephone number of the business and the nature of the complaint, etc. The public and the media will continue to have access to the consumer complaint and investigation files as currently provided by law, including complaint narratives, investigation reports, etc. However, the consumer protection agency will not have to release that specific information defined in this legislation as "personal and financial information."

This legislation will protect consumers from harmful and unintended disclosures while still encouraging the parties to provide the necessary information for purposes of mediating or investigating the complaint.

Madam Chairman and members of the committee, for these reasons, on behalf of the Attorney General and the Consumer Protection Division, I respectfully urge this committee to give Senate Bill 2313, a "Do Pass" recommendation. Thank you. I am willing to try and answer any questions.

TESTIMONY FOR SENATE BILL NO. 2313

Senate Government and Veterans Affairs Committee

Testimony of David E. Clinton, Assistant Commissioner, Department of Banking and Financial Institutions in support of a proposed amendment to Senate Bill No. 2313.

Senate Bill No. 2313 exempts personal and financial information submitted to a state agency as part of a consumer complaint. However, the definition of personal and financial information as proposed does not include consumer reports. Although the North Dakota Department of Banking and Financial Institutions does not supervise consumer reporting agencies, nonetheless the Department may become involved as to a consumer complaint if the consumer reporting agency is also licensed as a collection agency or if the nature of the contested information so reported in a consumer report was furnished by a state-chartered financial institution.

Accordingly, the Department believes that to preserve and protect the privacy of a consumer who submits a complaint to the Department containing a consumer report, that the consumer report should be considered exempt.

March 4, 19992

**HOUSE GOVERNMENT & VETERANS AFFAIRS COMMITTEE**  
**SB 2313**

**CHAIRMAN KLEIN AND COMMITTEE MEMBERS:**

My name is Jack McDonald. I'm appearing today on behalf of The North Dakota Newspaper Association and The North Dakota Broadcasters Association. Normally we oppose bills that close additional records.

However, we do not oppose **SB 2313** since it just extends to those filing consumer complaints the same protection of personal information that already exists for all state employees and licensees.

If you have any questions, I'll be happy to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

Testimony on SB 2313  
House Government and Veterans Affairs  
March 4, 1999

Mister Chairman and members of the Government and Veterans Affairs Committee, for the record I am Senator Rod St. Aubyn, from District 43 in Grand Forks.

Senate Bill 2313 is actually a simple bill. SB 2313 is a bill that simply allows personal and financial information which is submitted as part of a state consumer complaint to be exempt from "open records". This exemption however does not include the nature of the complaint, the complainant's name, address or telephone number of the business which is the subject of the complaint. Mister Chairman and committee members there is a representative here who is more knowledgeable about this bill and is willing to answering any questions. Mister Chairman and committee members, I ask for your support in giving SB 2313 a Do Pass recommendation.

Thank you.



HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE  
MATTHEW M. KLEIN, CHAIRMAN  
MARCH 4, 1999

TESTIMONY BY  
PARRELL D. GROSSMAN  
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION  
OFFICE OF ATTORNEY GENERAL  
IN SUPPORT OF  
ENGROSSED SENATE BILL NO. 2313

Mr. Chairman and members of the House Government and Veterans Affairs Committee. I am Parrell Grossman, Director of the Consumer Protection and Antitrust Division of the Attorney General's Office. The Attorney General and the Consumer Protection Division support Engrossed Senate Bill No. 2313.

This bill provides that personal and financial information submitted to an agency as part of a consumer complaint, or gathered pursuant to an investigation of a consumer complaint, is exempt from the mandatory disclosure of such information pursuant to "open records" law.

Consumer complaints filed with the Consumer Protection Division necessarily contain the complainants' and other interested persons' financial information such as bank account numbers, credit card numbers and expiration dates, etc. Financial information of the affected business also is included in many instances. Such financial information often is also gathered from both complainants and businesses during the course of an investigation.

It is usually very necessary for the Consumer Protection Division to receive and have access to such information for purposes of the complaint or investigation. However, some of the information is entirely gratuitous, such as a social security number, bank account number, credit card account number, etc. The information often is submitted unnecessarily, accidentally or is otherwise in our possession simply because it is on a document or is part of other information submitted or gathered. For instance, check blanks sometimes include social security numbers on the face of the check, as well as the account number.

There generally is no reason such information should be available to or disclosed to the public under the open records law. In most instances the release of such financial information is or will be harmful to the complainant or business. It would be an unfortunate and unintended result if in the process of trying to assist and protect the consumers or businesses, we released financial information that could be misappropriated or otherwise used in a manner harmful to the parties affected.

Identity theft, or the fraudulent use of personal identifying information, is rapidly becoming a huge problem in this country, as well as a serious problem for our North Dakota citizens. Identity theft occurs when someone uses your name and usually your social security number to obtain credit, loans, employment, health care services, rentals, mortgages, and maybe even file bankruptcy in your name.

We do not want to give these unscrupulous individuals any more tools, opportunities or information to commit identity theft or any other crimes by providing them access to personal or business financial information contained in a state agency file.

This legislation will still require open records disclosure of relevant public information such as the name of the complainant, the name, address and telephone number of the business and the nature of the complaint, etc. The public and the media will continue to have access to the consumer complaint and investigation files as currently provided by law, including complaint narratives, investigation reports, etc. However, the consumer protection agency will not have to release that specific information defined in this legislation as "personal and financial information."

This legislation will protect consumers from harmful and unintended disclosures while still encouraging the parties to provide the necessary information for purposes of mediating or investigating the complaint.

Mr. Chairman and members of the committee, for these reasons, on behalf of the Attorney General and the Consumer Protection Division, I respectfully urge this committee to give Engrossed Senate Bill 2313, a "Do Pass" recommendation. Thank you. I am willing to try and answer any questions.