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ROLL NUMBER

DESCRIPTION

1417

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1417

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1417

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: 01-23-2007

Recorder Job Number: 1728

Committee Clerk Signature

*Jim M Thomas*

Minutes:

**Chairman Keiser opened the hearing on HB 1417. HB 1417 relates to security freezes on consumer credit reports.**

**Rep. Koppelman** introduced the bill.

**Rep. Koppelman:** This bill is really a continuation of an effort that began two years ago when we introduced a bill having to do with identity theft. We looked at a number of factors that were prevalent in this whole issue which is ever changing and growing. One of the issues that we looked at in that bill and initially had in the bill, but removed, was this issue of security freezes. The reason we removed it is because it was such a new thing at the time that some of the credit reporting companies were calling the Attorney General's office and calling me at my desk saying not to do this because it was so new they weren't sure how to deal with it. So we agreed to withdraw that from the bill and amended it out. During the interim, a representative from the Attorney General's office came to one of the interim committee's I served on and said that they have a new idea that is now passing in other states, called security freezes. I agreed that it is one of those ideas that we might have been a little ahead of the curve two years ago, but we are right where we need to be this time. Basically it allows the victim of identity theft more tools to try to protect their identity by freezing some of this information so that the identity

theft can't be propagated and continued and when there is an identity theft problem, it's sort of like a ripple affect. The problem gets reported and all of the sudden that information gets disseminated and before you know it's just about impossible to control. This would be just one more tool and our state would help those victims.

**Rep. Keiser:** This would apply to anyone that, you don't have to be the victim of identity theft.

**Rep. Koppelman:** I don't remember.

**Rep. Gulleson,** spoke in support of the bill.

**Rep. Gulleson:** I just stand in support of this bill. I was made aware of this as an option for security freeze, at the time when the VA records when twenty five million of our veteran's records had been stolen. They recommended that if you lived in the state where a security freeze was an option that was the best way to protect your records.

**Rep. Gruchalla:** Wasn't that where the employee took the company laptop?

**Rep. Gulleson:** That may have been the case.

**Attorney General, Wayne Stenehjem,** spoke in support of the bill.

**Stenehjem:** Identity theft is a huge problem in the United States. Approximately ten million people are victims of identity theft in 2006. One in twenty-five citizens of the United States are victims. That means for each of your districts, about five hundred of your constituents are likely to become victims of identity theft. That is a huge number. The advent of the internet and the ability to harvest information, it means that we right here in ND are as likely to be victims as people in L.A. or New York, or anywhere else. Fifty-six billion dollars in 2006 was taken by way of identity theft. The average amount stolen is six thousand dollars. That is more than a bank robber gets. You have worked to do a lot of things to prevent this. You pass a very important legislation to help with this. According to my office, that is equal to a police report which triggers a very important federal right. So this bill would say that someone who is a victim or

suspects that they may be, can require that a credit reporting agency can not divulge their credit report to anyone except those listed in the bill. Twenty-five states have this legislation.

**Rep. Johnson:** If this goes into effect, does this put a freeze on yours?

**Stenehjem:** I would not put a freeze on mine personally right now. But if I lost my wallet, I probably would. If something happened in my ordinary financial affairs that caused me to wonder, I would.

**Rep. Keiser:** When employers are expected to garnish wages, I believe we get a check for twenty dollars to do that. The attorney's who represent, I think they get paid handsomely. The employers of the state get hit. In this bill, it has a five dollar fee. Does that correlate with the cost?

**Stenehjem:** I think that a lot of this is technologically driven. It probably doesn't cost all that much. I think that five dollars is common.

**Rep. Gruchalla:** Let's say you have a joint checking account with a credit/debit card. Do both parties have to freeze that and can one party?

**Stenehjem:** I will defer that.

**Parrell Grossman (A.G's office):** In response to that, I think it will depend on the nature of that information and the credit reporting agencies file.

**Rep. Amerman:** If your account is frozen and then you get your number and you want to get more credit, how do you undo it?

**Stenehjem:** You can get a temporary thaw or notify them that you don't want a freeze again.

**Rep. Dosch: (to Parrell):** When you are talking about this freeze, do you have to go through and notify every credit company out there?

**Parrell:** I believe you would have to separately notify the three major credit reporting agencies.

**Rep. Kasper:** The bottom of page one, line twenty-one, is about the security freeze. To me there are two types of "prior express authorization". There is when you are currently applying for something new, so you might sign a form authorizing them to check. Will this prohibit that information from being released if you give that authorization only you are applying for that credit. The second question, if you have prior relationships that might have been established years ago, like an auto dealer, and at that point in time, you gave your prior written authorization for them to check your credit report. Does that prior written authorization continue on forever?

**Parrell:** If you have a security freeze in place and now you give authorization that is authorization to release that. If you already had an existing relationship with that financial entity that approved the credit for that store, that would fall under the exception for existing account review which is contained in line thirteen on page four.

**Rep. Kasper:** Going to page four, line twenty-two. For purposes of the subsection reviewing the account, includes activities relating to account maintenance monitoring credit line increases and account upgrades and enhancements. All of which in most cases are initiated by the business. All of us get these notices that they will increase your credit line with a bank check to increase it. What if I don't want that?

**Parrell:** If you didn't want that, that would be a situation to address with Mr. Clayburgh.

**Rep. Ruby:** What about for instance you have an insurance policy and after the policy has been effective for some time, you put a freeze on your information. Are they then able to in the next time of renewal, and your rates are calculated on your credit score. Are they still able to access that?

**Parrell:** When I looked at that exception I thought that one interpretation of that would include that insurance relationship. I don't think the insurance industry folks agree with that. I think they are seeking an amendment to address that situation.

**Rep. Johnson:** Can you give your pin numbers to a business and have them unfreeze your report?

**Perrell:** I misspoke, you cannot give your pin number to a business.

**Patrick Ward, PCI and State Farm,** spoke in support of HB 1417, as amended. *See written testimony.*

**Rep. Kasper:** Top of page three, I don't think what you are saying is what you mean and I want to clarify.

**Ward:** You may more knowledgeable in that area than I am. My understanding is in the way I read it is that the consumer has to make the call and do what is necessary to make the freeze.

**Rick Clayburgh,** ND Banker's Association, spoke in support of the bill.

**Clayburgh:** Identity theft impacts our customers and it is an issue and concern. When security freeze is put in place on behalf of the consumer, it can cause inconveniences to the consumer and our interest is to make sure that our customers understand the impact that it will have on them.

**Linda Johnson-Wurtz, AARP,** spoke in support of HB 1417. *See written testimony.*

**Jennifer Flynn,** CDIA, representing the credit bureaus, spoke in support of the bill.

**Flynn:** I have come out here to answer any questions I can. Looking at the bill, there is a couple of things that we have some concerns about. We are not here to oppose the bill. There are twenty-six states plus Washington D.C. that have security freeze laws. Our main concern is that we have three national bureaus across all fifty states and our main concern is making

sure that the people in every state have a general idea of what it is they need to do to put a freeze in place.

**Rep. Keiser:** You heard questions about couples and how does that work?

**Flynn:** The way that it would work, if you have a joint credit card. If you have both signed the card and application, you are co-responsible for this. If one person freezes the file, the other person's file is still wide open.

**Rep. Kasper:** When it talked about the exception for the purposes of prescreening, can you tell us what applies there?

**Flynn:** When federal law went into place they preempted all the states from passing any law that would grant the ability for a credit card company to prescreen and submit offers. Any company can look at a file and send you an offer for credit.

**Rep. Thorpe:** What if they both had a joint card and got divorced?

**Flynn:** When you apply for a card, the information linked to you, is yours only.

**Rep. Keiser:** Five dollars for a fee, is that adequate?

**Flynn:** Ten dollars is the average. We are willing to work with that.

**The hearing was closed. No action was taken at this time.**



## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1417

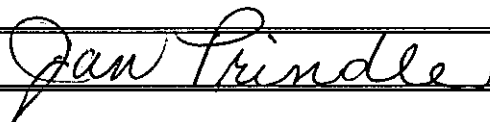
### House Industry, Business and Labor

☐ Check here for Conference Committee

Hearing Date: 30 January 2007

Recorder Job Number: 2339

Committee Clerk Signature



Minutes:

**Chairman Kaiser opened discussion of HB 1417.** He presented an amendment proposed by Pat Ward which brings insurance in as one of the groups excluded from having access.

**Representative Johnson: I move adoption of the amendment.**

**Representative Nottestad: I second.**

**Representative Ruby:** I'm a bit confused as to how much this restricts, even with the amendment, the use the use for credit information for an insurance score. Is there some limiting to that at all?

**Chairman Kaiser:** When I first read this bill I thought it was really problematic, but the testimony indicated that everybody is okay with it. Insurance companies are okay with it.

**Representative Kasper:** Here's where I have a problem with the amendment. When you apply for the insurance product, you have to sign at that point of application that you give them permission to check your background. Which means you signed, they can check. What this amendment does is puts in statute that you don't have to sign, they can just check. They use it for different credit scoring and for insurance purposes.

**A voice vote was taken: The amendment was accepted.**

**Representative Johnson: I move Do Pass as Amended.**

**Representative Boe: I second.**

Page 2

House Industry, Business and Labor

Bill/Resolution No **HB 1417**

Hearing Date: **30 Jan 07**

**A roll call vote was taken: Yes: 12, No: 0, Absent: (Dosch and Zaiser)**

**Representative Boe will carry the bill**

Date: 1-30-07  
Roll Call Vote #: \_\_\_\_\_

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
BILL/RESOLUTION NO. HB 1417

House Industry Business & Labor Committee

☐ Check here for Conference Committee

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

Action Taken Do pass, as amended

Motion Made By Rep. Johnson Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch			Rep. Zaiser		
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigasaa	X				

Total Yes 12 No 0

Absent 2

Floor Assignment Rep. Boe

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

**REPORT OF STANDING COMMITTEE**

**HB 1417: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1417 was placed  
on the Sixth order on the calendar.

Page 5, line 6, remove "and"

Page 5, line 7, after "8." insert "Any person or entity for use in setting or adjusting a rate,  
adjusting a claim, or underwriting for insurance purposes. This exemption does not  
determine or affect whether these uses are permitted under other law; and

9."

Renumber accordingly

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1417

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1417

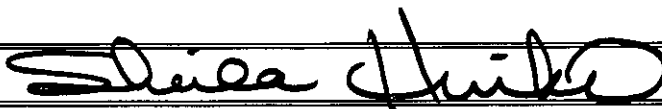
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 12, 2007**

Recorder Job Number: **4913**

Committee Clerk Signature



*Security Freezes:*

*Senator Hacker opened the meeting.*

### **Representative Koppelman -**

Bthis bill has been in the works for a couple of years, and deals with identity theft and security freezes. It is a new idea. CA is the only state that had dealt with it a few years ago and were persuaded to remove it from the bill from years before and watch what happens at other states before it becomes law. What it essentially does, it brings out fraud alerts or police reports. They need to take reports and police departments who were NOT taking reports. Now they would need to take a report, and it allows the consumer to place a freeze on the credit account information. People's names, reputations are jeopardized. It's difficult to "undo the bill." This can be stopped by putting a freeze on the record.

**S Hacker:** You mentioned other states, do they have the same provisions?

**Rep. Koppelman:** They have information similar in intent and form.

**S Wanzek:** To obtain a security freeze, is it only under certain situations where there has been identity theft?

**Rep. Koppelman:** Yes it is. You can read how it happens, and how you qualify to place a freeze is that you have to possess a valid police report, indicating that you are a victim of identity theft.

**S Wanzek:** You can't randomly request a security credit freeze.

**Rep. Koppelman:** Yes, they have to be a bona fide victim of identity theft.

**S Potter:** We define the victim of identify theft in the bill, but I believe it suggests that a consumer may select to place a security freeze on a consumer credit file. They can do it for any purpose. Page 2, line 9 It is absolute.

**Rep. Koppelman:** I'll let those folks..... *not sure about the answer.*

**S Potter:** There is some real specificity in here, 24-hour reporting, the credit report has to have a freeze on it 24 hours after receiving the notice. Is that possible?

**Rep. Koppelman:** I thought I saw somewhere else in the bill where they had a longer widow time on that as well, and I know that windows of time are something that Mr. Grossman has been visiting with the industry about to make sure that these are workable.

**S Potter:** We'll ask him, and then the last one, the consumer may make the request by telephone, what kind of paper trail is generated or verification?

**Rep. Koppelman:** I'm not sure the phone call initiates the process or sufficient to complete it.

**S Hacker:** I don't know if you were involved in the technical parts...

**Rep. Koppleman:** I reviewed the draft.

**S Hacker:** I reviewed it and there is a provision here where we put the freeze on, and it costs the consumer \$5, and take the freeze off it costs them \$5, and request for the pin, first time is free, then \$5 after. I understand it is great for the consumer, but my question is does it cover expenses? Do you have any idea how much work or cost there is to the companies that have to go out and do this, put the freeze on and take the freeze off? Whether or not the \$5 covers

the cost, if not, where are those dollars going to be made up? They're going to charge them out at some point in time.

**Rep. Koppelman:** I can't answer if the \$5 will cover the cost. It is lesser cost than unraveling the damage.

**S Hacker:** There are a lot of exemptions. Who does it affect? I'm looking at the Regional Agencies, screening, who's left?

**Rep. Koppelman:** It relates to issues a few years ago. When we talked about introducing this to define this narrowly enough that it captures the folks you're trying to deal with, who are very few, "the big 3" credit reporting agencies nationally, are who we are aiming at because, frankly, when you order a credit report it will come from one of those folks. We were saying, we don't generate these reports in the state, we can't freeze them, so they need to be frozen at the place that generates them in the first place. I suspect that is what they were saying in the exemptions in the first place.

**Wayne Stenehjem, Attorney General - In Support**

Identity theft is the fastest growing white collar crime. It can be done with a computer and it is happening right here in ND and the U.S. It is just as likely that ND citizens, your constituents will become victims of identity theft. One in eight will become victims. This bill is for consumer and business protection. Identity theft costs 56 billion dollars. Credit cards are opened, businesses bare the costs. The 3 large credit companies are: Equifax, Experion, and Transunion collect an enormous amount of personal information about each person in the U.S. this information shows if you've paid your bills on time, if you have a mortgage, if you written bad checks, how many credit cards do you have, what are the credit limits, how often have you been late, there is an ENORMOUS amount of highly personal information. It's essential in our economy to have that kind of information that is available so that credit card companies can



decide if you're a worthy person to be offered credit. On the other hand is the problem with identity theft. What this bill does is provide a mechanism that citizens can tell these credit agencies, "don't give my information to ANYBODY who wants to open an account in my name." That seems logical that you can tell the credit reporting agencies they don't need to give the information to anyone. Lately we have seen "security breach of the month club" where the theft at the VA laptops where millions of pieces of information about individuals. TJ Max had personal customer information breach. Hackers are getting in and gaining information from people. What this bill does is to provide a mechanism where a people can stop the credit agency from giving the information out. It will be a bit of a roadblock for consumers because they will need to know that they will have difficulty getting credit when they go in and buy the big screen TV at Best Buy with instant credit they're offering, but it is an essential tool. In drafting the statute, we tried to follow as closely as we could enacted in MN. We haven't heard of any problems. Fees run from 0-\$20, and free to identity theft victim or free if a Senior Citizen, runs the gamut. It is simple, efficient with the minimal amount of hassle. We get calls all the time, it is a huge problem. We have worked with the bankers and insurance who also believe it is a good idea.

**S Klein:** Have you seen amendments?

**Wayne S:** Yes. You seem to be aware, I don't think I support ANY of them. If there are some questions about needing the amount of time it actually takes to get the security freeze implemented, that's something we can work about. One of the concerns is that we need to have these placed by Certified Mail. Why make a person go down to the post office, pay \$2.40, stand in line, when the P.O. doesn't require any verification of who the person is, why not make this as simple and efficient as we can so that we wind up with a statute that works?

**S Klein:** You talked about Minnesota, is MN real restrictive or is it in the middle?

**Wayne S:** They just run the gamut. In Utah, after you've placed a freeze and you want to thaw it out because you're going to buy something, how long should that take? In Utah, they have a goal that it would be 15 minutes. In ND we allow 3 days. We tried to come up with something in the middle. New credit will be more difficult.

**S Hacker:** You spoke of the goal in Utah, I was reading the legislating, we set a goal, what happens if you don't reach that goal?

**Wayne S:** Nothing. We make a goal and try to meet it, it is set in statute. Things may be able to happen very quickly.

**S Hacker:** The intent is to get this implemented in 2-4 years, we can move towards the 15 minutes?

**Wayne S:** We'll watch and see what happens. We'll try to do it as quickly as we can.

**S Hacker:** Conceptual question. The piece of Legislation is really going to change how information is shared, like the Do Not Call List, is very easy to implement. I imagine in a year or two, a lot of people will enroll in this and instead of the flow of information changing direction, now information is being changed. Are there unintended consequences?

**Wayne S:** I don't think so. If I was a victim or thought I was a victim, otherwise I wouldn't want to bother with it. I want credit granted in my name as quickly as possible. I don't see a reason to make it more difficult.

**S Potter:** Do you really want to put a goal of 15 min. in statute?

**Wayne S:** Yes, the question is, do you want to do that? That is where things are going to wind up.

**S Potter:** What currently limits the number of the Credit Reporting Agencies that are out there? I know there are three, maybe only three, what prevents them from breaking up and making 6 or 12 or 15? In the absence of a dollar figure, they can charge, "not to exceed \$5" unless

they've been a victim of identity theft or provide.... If they're a victim of identity theft, what limits them from charging any fee or not?

**Wayne S:** There is no fee if you are a victim of identity theft. Maximum of \$5 if not.

**S Behm:** How can they get your identity so soon? How is it possible? Do they pick your name out of a hat? How is it done?

**Wayne S:** There are many ways. If you go on the internet, your accounts, computer, in your garbage, businesses, and they are getting more sophisticated. They get you to click on a link and they get your name, your account numbers, your pin numbers, and mother's maiden name or other information. Asked that people get their Social Security number off their check blank.

**S Behm:** I had that happen, and my Credit Card company found it. The thieves will do something small and then when it goes through, they get brave and do something larger.

**Wayne S:** Be careful when they call YOU, because that may be an identity thief calling you up and saying they need verification on the account.

**S Behm:** When they said it was cancelled, I knew they knew what they were talking about.

**Wayne S:** I would have called them back.

**S Klein:** Can you give an example of how a consumer can go through the process to get a freeze and get it off, just give us an example, a timeline.

**Wayne S:** You could call or write to the credit reporting agencies saying: First: I have been a victim of identity theft, here is a copy of the police report that I filed with A.G office, they would then have 3 business days to enter it into their system, and then when I apply for a VISA card, you contact the Credit Reporting agency, they will say "No" we cannot do that, there is a freeze on this account. If I am suspecting because I read of the local fraud and I was on the list, you can call and freeze your account.

**S Klein:** Then it would be your responsibility, if you wanted the VISA card, you would have to melt the account.

**Wayne S:** You would thaw or drop the freeze. You can let the Credit Company know that you will be applying for a card ahead of time so that they will let it go through. There may be a password or a pin.

**S Klein:** The resistance to this bill is going to come from these 3 companies?

**Wayne S:** Yes.

**S Wanzek:** You feel that with checks and balances and consumers not abusing it, most 3<sup>rd</sup> party that want to extend credit and see the freeze, the answer is going to be "NO."

**Wayne S:** All of them know there could be fraud, or cell phone, or those people granting credit.

**S Wanzek:** So the consumer would have to lift the freeze to do that?

**Wayne S:** Yes. We want to make it easier to get credit.

**S Wanzek:** Is the Social Security Number the key?

**Wayne S:** That is the "Holy Grail" of information, they really want and really need to have your social security number.

**S Wanzek:** I know a few years ago, reading about someone in MN read an obituary, saw a name, called back here, and somehow got through deception eventually got enough information, but I'm imagining that your social security number is the one thing you should safeguard the most.

**Wayne S:** You shouldn't have it on your drivers license, check blanks, even the fishing licenses.

**S Wanzek:** I've been a victim of fraud and become aware of today that I'm a victim of fraud, what's the first thing I should do?

**Wayne S:** Call Parrell Grossman and we'll get you to file a report, police report, also you can file it with our office and THAT is treated as a police report so you don't have to worry about what jurisdiction you're in or anything like that. The next thing I would do is notify the credit card companies.

**S Andrist:** Do any of the Credit Reporting agencies have a service whereby you can operate with a frozen information, where you can go to them and say, "I'd like to have you release this information only to such-n-such, so that I can buy that big screen TV."

**Wayne S:** Under this law it would be the case, that I'm aware of under the current law.

**S Andrist:** So I could routinely just freeze that information and if I needed it to apply for a credit card, I could reach these companies and have them just give this information without unfreezing the account?

**Wayne S:** Not currently, but under this bill, you could say, "you're going to be getting a call from \_\_\_\_ because I've applied for an account from \_\_\_\_, give my report to them, my pin number is \_\_\_\_, my name, please give them my report when they contact you."

**S Andrist:** I'm a consumer that's not very worried. How am I going to know what this bill does? So that I can protect my identity, I've got to get to these 3 companies, or can I do it with one stroke and how am I going to know about that?

**Wayne S:** We will do everything we can in my office and we print pamphlets up and various agencies like the AARP print pamphlets up so that if you're a victim of identity theft, here's what you need to do. Local law enforcement will know and certainly spread this as wide as we can on both sides. There is a down side too, if you put the freeze on there, there may be some difficulties when you do come in to get some credit. For many people this is the way to prevent themselves from having to go through the tremendous amount of work and the number of hours as a victim of identity theft has to undo all the problems that are encountered.

**S Andrist:** How about the guy who hasn't been a victim of theft, and does he have a way of finding out about this bill, and will he have a number to call or something? Maybe he doesn't want to take any chances and freeze his account and take chances on getting credit some other way.

**Wayne S:** We will have it on our website and will print brochures. Lots of other organizations that are worried about it will do it, and every time a problem comes up, at the VA, TJMax, when those stories come up, they certainly will put a news article out, "if you think this applies to you, you will have the right to freeze your credit report, please do that by visiting this website or calling." We take 150 calls a day, lots of people know we're there.

**Representative Pam Gulleon – In Favor**

Last summer when the records from 26 ½ million records had been stolen, I was very interested in if North Dakotans had been impacted by that, and started to make some calls and found that indeed, some of the information from ND veterans had been stolen. If it had been used against them, I'm not sure. If part of that, I looked at the VA website and had an announcement about what happened with these records, and right next to it in BOLD, was a recommendation for those veterans to use the SECURITY FREEZE option. We DID NOT have that option in ND. 26 other states did. When I called the A.G office and found that they had started working on this bill, I was very, very pleased and happy that they included me in part of it. It is one of the fastest growing crimes. As much as we can think about it, the folks doing the fraud are way ahead of us. They are thinking of more and more ways to access our information. Our first requirement is to the citizens of the state and put the best production possible into place.

**Parrell Grossman – Director of Consumer Protection – Antitrust Division - In Favor**

**TESTIMONY # 1** *Covered testimony Explained the problem, told the story of 400-500*

*unauthorized hits. 40:30-45:15m*

**S Hacker:** 2<sup>nd</sup> Page, did you draft legislation, under this request, you must file that request with ALL of the reporting companies individually, correct?

**Parrell G:** Yes, unlike a security fraud alert which can be reported to one credit agency and they follow-thru and must be placed on the other two, you would have to report this individually.

**S Hacker:** Apparently you are aware of all the exemptions in the bill. There are lots in here that companies don't qualify in this, who are we trying to target? Credit Card companies, if you look at legislation that could be targeted those rather than everyone, and start down the list of exemptions. It's another way of approaching who you are targeting.

**Parrell G:** These exemptions are similar to the other states. There is a certain way we do business, and making it more restrictive than it already is would have made significant exemptions. As to your point, I don't know if you can craft just to address certain transactions. This isn't targeted at the banks, or the cell phone companies or utility companies, this is targeted at preventing information getting into the hands of identity thieves, that will open unauthorized accounts and then spend dollars in your names. Run up \$50,000 credit card bill, \$4000 phone bill, those are the individuals from having unauthorized access to your account. You have to stop that at the source. The only real effective way to do that is to prohibit any of those individuals from getting access to your credit report. If the business or the bank can't see the credit report without your permission, they can't open an unauthorized account, so it seems to be the simplest, cleanest way to target the problem of stopping the identity thief. It will have some inconveniences in businesses. If I want to buy furniture, I may have to wait a few days to

complete that transaction and if I don't like that, I can pay that \$5 or whatever fee you set and remove that, I can decide not to use that in the future, but if I have been the victim of identity theft and I've spent 100's of hours and \$100's of dollars resolving this issue, then I'm entitled to this protection.

**S Hacker:** In the exemptions, say I have a loan at the bank and the bank also issues Credit Cards, etc. because of the loan, they're exempt. If they wanted to extend credit and I had a freeze on it, just like another CC company they would have to get my information, do they need the information even though they already have it?

**Parrell G:** No, if you have an existing relationship, with that bank or financial institution, if it were THEIR credit card, they would not be subject to the security freeze as a current customer. If the bank would "up" your line of credit, they could do that without having you clear that security freeze.

**S Wanzek:** In a sense, won't the identity thieves have one more number, they'd have to obtain if they wanted to further steal your identity?

**Parrell G:** Certainly, if you freely allow access to the pin number, someone may get that pin number and be able to get your credit freeze thawed. We anticipate that consumers will be more responsible and take steps and urge them to closely protect their information.

**S Potter:** Isn't the horse already out of the barn in the first 24 hours, 48 hours? If your identity has been stolen, CC numbers stolen, aren't you already damaged and this is sort of closing the door afterwards?

**Parrell G:** That's an interesting observation you would make, since I'm aware of numerous incidents around the country where ID victims have been re-victimized time and time again, even after reporting it to their creditors, credit card companies, and credit bureaus, and yet a



month or two later they'll show up with another unauthorized charge on their account. In most cases, this DOES shut off that valve of identity thief.

**S Andrist:** If I freeze that information on those 3 agencies, am I right in assuming that it really doesn't end my ability to get credit, it just means these guys have to do the grunt work themselves instead of going to the agencies and getting it?

**Parrell G:** That's correct. Whatever business you choose to do business with will work closely and swiftly with the credit reporting agency to be sure that you can quickly thaw that so that you can make your new car purchase, or furniture purchase or diamond ring for your wife, whatever that purchase may be. Certainly, we'll see it improved as we move forward.

**S Wanzek:** Is there a stereotype, what does one of these individuals look like? They must be very creative and resourceful people.

**Parrell G:** I picture them to be like the Attorney General, suave, clever, debonair. We really don't know, they still are working with scams, organized ID theft rings are hooked up on the computers, all working together sucking information out of my computer. There are so many sources, almost 11 million victims of identity theft. There are paper trails, I would send a letter or certified letter to ask the credit agency to place that freeze.

**S Wanzek:** Do they ever get caught?

**Parrell G:** Yes, but they are costing us billions. The Secret Service is working on that, Dept. of Justice in Florida, they already have a great deal of information, I'm convinced those particular individuals will get caught. We are getting better in law enforcement. We cannot catch them all in Nigeria and overseas. Law enforcement has made it more and more a priority.

**S Behm:** A lot of these guys you never see. They are working at getting your identity.

**Parrell G:** You don't know who it is, if it is a stranger, a college roommate.

**S Behm:** We've got Heitkamp right here.

**S Heitkamp:** We've already got the profile.

**Linda Wurtz, AARP of ND - In Favor**

**TESTIMONY # 2** *Goes over testimony.*

**Joel Novaak – Bismarck - In Favor**

Had personal experience. In the last 15 months have had 2 communications with the Veterans Administration that record have been compromised because of missing computer files and the records have been stolen. Indeed my identity could be stolen and the ramifications for something like that, kind of funny because when I needed my medical records, they couldn't find them. If they would have kept them where they had them hidden, they wouldn't have gotten stolen. When I go back to the records of when I got calls from telemarketers, I knew what they had in mind, we got rid of that inconvenience. Then I had to get a bigger mailbox, because now, it was a contact they had to make by mail rather than telephone, so now if I can figure out some way to cut out that. I'm 85 years old, once ID theft is in effect, it is hard to undo.

**S Klein:** I've heard there are amendments to this bill, I haven't seen them. Are you in opposition, "We like the bill, but don't like it all?"

**Bill Shalhoob, Representing Consumer Data Industry Association - Partial Opposition**

**TESTIMONY # 3** *Went over testimony.*

Amendments provided by Bill. Went over testimony.

**S Klein:** Were you aware of these issues on the House side?

**Bill S:** No, Mr. Chairman, I was NOT.

**S Klein:** So these did not have a hearing the House.

**Bill S:** Correct, CDIA was not aware of them, they had a person who came out here, but did not effectively speak to them.

**S Andrist:** Tell me why I'm wrong. I regard Equifax, Experion, and Transunion as identity thieves myself. They gather this information on me without my release, I didn't tell them to get it, they're doing it as a business for somebody else, and I don't see that they give a darn about these 3 companies. That's between me and the credit card companies, where am I wrong?

**Bill S:** You are if you want to buy something. If you want to buy furniture and you're not in your home town or in a town where nobody knows you, they're not going to give you credit unless they receive some assurance that you're going to pay the bill. When you're standing asking for 0% financing, 0% for one year, all of the things that go into the credit process. Simply you will not be able to buy anything unless businesses will be able to access one of these things and know that you're going to pay the bill.

**S Andrist:** You haven't answered my question. I don't care about 0 financing, these people have gathered information on me without my permission. If the furniture dealer wants to tell me he doesn't want to sell it to me because he doesn't have the information, that's a different issue. Why have these people gathered this stuff on me that they are peddling to anybody that asks?

**Bill S:** They said they want this information before they extent credit to their customers, therefore they're fulfilling a business need.

**S Heitkamp:** If I stop at a furniture store in Fargo, who doesn't know Joel and Sue Heitkamp, why in the world can't they have ME fill out a report if I so desire, rather than having it there in advance?

**Bill S:** Maybe we can get your account, by having an advance, we can use these people, they can provide you with instant credit, and those people have assured them you are good to purchase the items.

**S Heitkamp:** Instantly buying. That's all I'm sacrificing by supporting somebody's identity being threatened here, is sacrificing Sue Heitkamp's ability to instantly buy a chair. OK, that's pretty easy.

**Bill S:** There are all kinds of transactions involving automobiles, cars, houses, and all of the things that are involved. By allowing this bill to pass even with the amendments, you can freeze your credit at all times.

**S Heitkamp:** And then me and Parrell would be talking then..

**Bill S:** I think that either, with or without you will be able to freeze your credit. The problem you'll have then if you WANT credit or applying for a CC or a few other things, getting it unfrozen or lifted, without this legislation you can't freeze it, we're in favor of the legislation in 28 other states. It's a case of how we have to implement it.

**S Klein:** Insurance is exempted?

**Bill S:** Yes

**S Potter:** On the 2<sup>nd</sup> page, 3<sup>rd</sup> paragraph, I don't understand this one, we're talking about whether or not the consumer has asked it to be frozen due a material misrepresentation of fact by the consumer. The only issue whether or not the consumer is making a legitimate request or just a frivolous request is about the \$5 fee, isn't it? A consumer can ask for his report to be frozen for little or no reason.

**Bill S:** Yes

**S Potter:** It was confusing me, I don't see the argument about it at all.

**Bill S:** We're talking about the removal of that section, the amount of time, 24 hours.....

**S Potter:** This is about the company removing the freeze because the consumer has asked for it for some frivolous reason, the consumer can ask for it for any reason, doesn't need a reason, so the company should never be able to remove it.

**Bill S:** Yes, you might do that, our only contention in that section is the 3 business days, to have the rest of it in there is fine, it's just the 3 days.

**S Hacker:** One last question on the bill, because there has been so much regulation, you have 24 states now, when is it when you go to the Feds and say, "we need something that's uniform?" Has the CDIA proposed any legislation to the Federal Government?

**Bill S:** I'm not aware of any.

**CLOSE**

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1417 B

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee,

Hearing Date: **March 12, 2007**

Recorder Job Number: **4914**

Committee Clerk Signature



Minutes:

*Mathern Amendments, Rep. Skarphol*

### ***Bill Shalhoob asked to take the Podium***

We have had an opportunity to talk to the Attorney General's (AG) office. I gave the AG a copy of our concerns, I've exchanged emails with Parrell. They said that they thought they could do something.

**S Klein:** We're not going to act on this today.

**Bill S:** We're willing to meet and discuss things with Parrell, if he's willing to be open to any kind of changes at all.

**S Klein:** Even if he's not willing, I want you to sit down and visit.

**Bill S:** We would be happy to sit down and visit.

### **Mike Rudd – GE Money – President of ND Retailers Association - Support Amendments**

We support the same amendment and like them added to the bill. I received from GE Money today, Federal Trade Commission Report on consumer fraud and identity theft, it breaks down where the fraud is occurring. 25% is Credit Card fraud, most common reported identity theft,

Phone and utilities 16%, Bank fraud \$16, Employment 14%. This file would not prevent any types of these types of theft.

They have concern of telephone and internet, they are the two of the ID thieves favorite targets and using them regularly. Used to steal pin numbers and other information & money.

We think the bill is a little stringent and strict and would support the amendments.

**S Hacker:** Could you go through those numbers a little slower? *Reads them slower.*

**Marilyn Foss – ND Bankers - Neutral**

**TESTIMONY # 2 Amendments**

We met with the Attorney General, banks have to have to work on an exception to deal with current customers like renewing lines of credit. Renew a credit card, etc. 513303036 section 1 this is the Minnesota language and we have been advised by our Minnesota colleagues that it has been adequate to allow us to do on-going banking business with our customers. We did appear before the House committee and we do support a cost for this service which is enough to give the credit reporting agencies the hope of recovering costs on that because the reality is that if they don't cover their costs, somebody picks them up and that's the users and the banks are users of these reports, so we were proposing a \$10 amount in that committee and is appropriate for this committee to look at.

**S Klein:** You were exempted under this provision, banks are.

**Marilyn F:** Yes, we are exempted when we are trying to get information who are checking account customers and our existing credit card customers, we are not exempt when we have someone who comes to us for the first time.

**S Hacker:** If I have a loan at your bank and I want to get some credit extended to me, it has nothing to do with the loan, does that mean you have to gain access to my freeze, even though

I have a loan and you have information on this, because of the determination that I want you to extend credit to me, either a line of credit, etc.

**Marilyn F:** I would read this bill if you were truly applying for a new product, I would say this could require us to unlift the freeze. I think one could argue about that a little bit because of the language in the bill is not perfect. Our interest was in allowing us to work with our existing products, it was not to be able to issue a credit card without looking at the freeze and were concerned about people coming in and saying, "I want to renew my line of credit, I want to renew an expiring credit card which I had with you," and the people in Minnesota tell us that this exemption is good enough to allow us to do that smoothly, that was our interest.

**S Hacker:** That's kind of vague. If I was a customer of the bank and had a bank account, savings, loan, you know how they have that attached credit to checking accounts, ready credit, do you need a credit report?

**Marilyn F:** With instant credit I'd say you have to get the freeze lifted and get the report. If you're an existing customer and we are servicing an existing account, we would not. Page 4, line 19 where we are able to get information without unfreezing.

**S Klein:** This goes way beyond the telephone call to the agencies.

**Marilyn F:** We are concerned about security freezes. We encourage people to put them on to protect their credit, but may not be fully aware of the credit line underlying it such as cell phone, telephone line, property rental, before your house insurance is renewed. There is a direct relationship to what you do. It can and will affect situations.

**S Klein:** Is the law in other states too new that we can't see what has happened, or have they adjusted for some of these issues? As the consumer gets out and understanding on the other side of it, have there been any discussions to change that back?



**Marilyn F:** The trend among states is to adopt some kind of security freeze. I don't know of any state that has repealed it. The issues tend to be, "is this something that you want to encourage or offer to people who have not been victims of identity theft?" South Dakota did enact a law last year that your eligibility for it is limited to the victims of identity theft. The cost of cost recovery is an issue, we don't have a study to see if it reduced identity theft.

**S Klein:** Is it worth the hassle to protect your credit.

**Marilyn F:** There are states who have declined this offer.

**S Potter:** When there were requests to the bank, what are the costs of the labor?

**Marilyn F:** \$30 an hour in increments. Usually charged in ¼ hours increments.

**S Heitkamp:** More than anything, rather than track them down in the hallway that we hear about a lot of amendments that weren't heard in the House, so some feedback from those supporters on what they think of the amendments.

**S Klein:** We've heard from your group, everyone's good there. Parrell? You've heard the discussion, seen the discussion, had you heard my suggestion that you would need to see if there is "wiggle room" and then we would try to figure that out. Would you take the amendments and make your comments.

**Parrell Grossman – Attorney General's office** *Called to the podium*

*Gave the history of the amendments.*

I want to address the issue of, could we have gotten these amendments earlier? Last December I provided a draft to this proposed legislation to the consumer data industry association as you know, the association for the credit reporting agency. I provided the copy to Eric Elman, the Vice President and council for state government in regulatory affairs, he acknowledged that receipt. I sent him a final copy of the legislation immediately prior to the introduction to legislation. Jennifer Flynn, a representative of the CDIA attended the committee

hearing on the House bill 1417 before the Senate Industry, Business & Labor committee and of course legislation is an area for responsibility and I know that she was traveling onto the next state upon the completion of that hearing that particular day. The CDIA had every opportunity to offer proposed amendments in the House. The Attorney General respects their right to advocate for changes or seek a more effective advocate, but he does want to make it clear to the committee that the CDIA was well aware of this legislation and EVERY detail and EVERY stage to the hearing today just to clarify that issue. Want to address Mr. Rudd's comments, I don't know if I misunderstood or he misspoke. I heard him say that GE said it didn't apply to credit cards and didn't apply to the telecoms, is that correct?

**GE Credit response:** GE says the final freeze would not prevent any of these types of theft.

**Parrell G:** I believe that is incorrect, about ½ of the identity theft complaints that we get are linked to cell phones. The cell phone companies will run a credit check before issuing that account, so it's going to be very difficult to open a cell phone account in my name if I have a lock or security freeze on that information, so I don't understand that in addition to credit cards. It is almost IMPOSSIBLE to open a new credit card account UNLESS YOU, the person who is that individual grants access to that credit file. The other thing I want to talk about is the prevalence. Should it apply to credit, should it apply to other transactions that Mr. Rudd. A number of the identity theft complaints will link to other circumstances, like business property, household houses, etc. that individuals are stealing the identity and then renting property. They are signing up for cell phone services, for internet accounts, so ND legislation is targeting all those unauthorized accounts whether it's a credit card or new cell phone account, it's just as much trouble for a consumer to resolve a cell phone name that has been opened in his name. Usually these aren't small amounts. We've had bills on identity theft complaints where they might own \$2000 or more on that account, because someone took it out in their name and

used that cell phone frequently. This legislation captures those problems. There haven't been any studies, but to the Attorney General and me, it makes common sense, if someone can't access your credit file, how can they open a credit card account in your name? It has to be effective in that regard. We don't know what numbers will reduce the victims.

*Covered Proposed Amendments*

Telephone, CDA has dropped it's objections to regular mail. Comes down to the telephone. Comes down to the secure electronic access, see current language page 2, line 16, "if the connection is made available by the consumer reporting agency," The consumer may make the request directly to the consumer reporting agency through a secure electronic mail connection IF the connection is made available by the consumer reporting agency. As Mr. Shalhoob's testimony indicates, two of the states have delayed that bill requirement until Sept. 1 of 2008, so it may be the A.G. position that if they don't make it available to those 2 states prior to that time, it certainly isn't going to be available in ND prior to that time. That provision isn't applicable until they make that secure connection available.

**S Klein:** The telephone would be the most prevalent way to call these companies and saying, "I'm \_\_\_\_ and I want to have my credit secured and frozen." They would have someone on staff? I'm looking at how every state will be different in S Hacker's comments and how these companies try to sort all that out. We're going to pass this in tact, but as I look at this huge issue in the country, I wonder why we didn't do this in the national level.

**Parrell G:** There is legislation at the national level, it has not yet moved forward, the AG was concerned about that legislation because it was preempting individual states, we never feel the federal government is going to take better care of ND consumers than the AG or other state agencies, but that legislation has not gone forward. Certainly if they adopt some consistent legislation make the rules the same for everyone, that could ease the implementation for this

type of legislation. Our concern would be whether they would give the individual AG's in each state the ability to force that statute, as of this time, this legislation is not moving forward, but anticipate it will be something that will be considered in the future. The telephone, MN has already passed that requirement, that doesn't say ND should pass it, but will have to implement for MN. The concern is the ease of use. There is some concern about the paper trail and the AG does, but think of the elderly gentleman, I think of the ease of placement by telephone as opposed to drafting a letter or an electronic email. This will be much more useable and convenient if we allow it by telephone. It strikes me as feasible. It might work as the "pre-credit" report now that the federal credit report agencies provide. You can access through the website and they will call you and ask you the questions. Once name and social security number are provided, they will ask me questions extensively to trick me. They ask a series of questions designed to be sure they are speaking to ME.

Amendment 5: clarification issue. *Goes over amendment Addresses the 3 day notice.*

Talked about the issue of private enforcement and weren't able to reach an agreement on that. The SOS said the language was straight forward. The AG thought it was appropriate for the consumer reporting agency if it is aware that is it inappropriate to release information to notify the consumer.

Addressed the issue of Placement of Security Freeze within 24 hours for the AG. In the interest of compromise the AG and I met over the noon hour and went over all this legislation and had this discussion with CDIA and what the AG would like to suggest to agree to make some modification to that. They have expressed concern placing the freeze within 24 hours.

I asked Jennifer Flynn if she had any information indicating that they could not place the freeze and she said, "No, just concerned that more time would likely prevent any particular errors."

We will continue to discuss that particular requirement on AG suggestion in the interest of compromise that he would recommend an amendment that would change that to 48 hours until Jan. 1 of 2009 at which time it would revert to 24 hours. If the 24 hours isn't working at that time, that is right before the next legislative sessions, so the consumer reporting agencies can come in and say, "we've had 2 years of experience with this, the 48 hours is/or isn't enough, 48 is enough, 24 won't be enough, and now it's going to change, and so we need to change that back to 48 hours.

**S Hacker:** I asked the question earlier today, why haven't the Feds adopted a uniform law? As we went through some of the earlier testimony, you stated our law is like MN, there are a lot the same, but a lot that are different, like this 24 hours thing, they don't have that in MN?

**Parrell G:** I don't know that I would agree, there are always things that are different, and didn't want to get in the trap of getting into everything that is different than MN. I don't even have all that information. The 24 hour requirement is different than MN. The only other state that is considering that is Montana. Montana passed it out of it's Senate with the 24 hour requirement in there for identity theft victims, they are having their hearing today or tomorrow in the House.

**S Hacker:** There are probably two approaches.

1. Keep the power in the state, and not have a preempted Federal law come in to address the issues that we're trying to address and if that is the real result, why wouldn't we want to be as close to other states as possible, knowing that if it is NOT uniform that those companies will really push in uniform law that would preempt our state law...OR

2. Make this as UGLY as possible to encourage those companies to go and push for a preempted Federal law also. Can you comment on both of those "strategies"?

**Parrell G:** I think that is an excellent observation. I don't know where ND goes with that. All the laws are already different. Which law do we now follow? Do we follow the state law that

doesn't include identity theft victims? To file the limited security freeze, do we follow the states that have placement by certified mail? Go down to the Post Office, stand in line, pay \$2.40 to send out a certified letter when you consider the Post Office doesn't ask for any identification. In some respect, all those laws are different. I don't think it will matter. When Congress come in and if and when they decide to pre empt, I wouldn't be surprised if they do. They'll decide which laws to enforce.

**S Hacker:** If states uniformly adopt similar legislation and leave the power in the state's hands if obviously adopted something helpful, but if we're conflicting across the states for these businesses to operate in, they're going to end up going to the Feds and saying, "we can't operate unless there is some sort of uniformity across the board." My point is, it needs uniformity.

**S Potter:** Parrell, you make a pretty good case about this, almost like they should put a universal freeze in place and have people opt out when they want to get credit. Is that something you would advocate?

**Parrell G:** Each consumer can choose. The AG was asked if he would place a security freeze and he said only if he would be a victim. I would because I've been a victim and I deal with it day in and day out and I've seen the devastating consequences. I know of all the hassles there are in closing out the accounts, collecting history, etc. I would place this if I had the opportunity. Customers need to decide, do they want to deal with getting credit at the furniture store? That's going to be an inconvenience.

**S Potter:** So, the AG consumer protection division isn't anticipating doing public service ads encouraging everyone to freeze their accounts?

**Parrell G:** I feel that may be another trick question. I think we will be doing a significant amount of education, we promised ND Bankers Association and promised to work with them

hand in hand telling consumers of procedures, but bear in mind there may be some inconveniences. Don't be angry with the telephone company or the bank or the other business if you can't get to your credit. I think there will be consumer education. I don't think it will be "everyone needs to do this" to place this security freeze.

**S Potter:** The potential for fraud with the telephone is fairly great, I'm thinking that you sending a piece of literature, here you need to protect your securities and freeze your credit information by calling this number, then they get all the information that they need and they're off and running.

**Parrell G:** I think that is possible, the con artist and identity thieves can figure out almost every angle.

**S Potter:** Specific question, there is a question how the company, the consumer agency is going to bill these fairly minuscule fees, \$5 a pop, you're going to require them to impose the fee with a phone call. There's been no payment, so they're going to send out a bill for \$5? How is that going to work? I'll end up with a bad credit rating for not having paid the \$5. How, physically, is that going to take place?

**Parrell G:** I haven't spent enough time explaining this bill, but there are provision in there. The placement of the freeze by the Credit Reporting Agency is collecting fees that are applicable. I would assume the consumer would have to supply a credit card for that \$5 fee, whatever is set up.

**S Potter:** So the phone call I'm making to these people, I'm giving them my credit card number, too?

*Comment from the audience, "they already have it."*

**S Behm:** If I put a credit freeze on my account, how hard is it to get it off again?

**Parrell G:** I don't think it will be difficult. You'll provide that unique, personal identification number, the payments of any fee to thaw that, and they'll remove it. Is it going to take a few days? Yes, but I don't think it's going to be difficult. The ND legislation doesn't provide for the removal.

**S Heitkamp:** The amendments that you talked over with, that you're willing to compromise on, willing to come together, obviously they need to go one. I think this is a concept that needs to go forward. My concern is, is this a Fed. Answer, is this an answer looking for a problem in ND that really hasn't been dealt with on a Fed. Level. Things have changed, but not so much that I don't see that happening. Is any thing cooking right now on a Federal level that would stop us from moving forward on this? Any legislation out there that you see will become law?

**Parrell G:** I am not aware of anything.

**S Heitkamp:** So if we're going to be protected for the next couple years, and have a shot at ND, this is it?

**Parrell G:** That would be the AG suggestion. I can't look into the future.

**S Hacker:** These individuals that are stealing identity, they're able to get information from lots of individuals, social security numbers, mother's maiden name, all those sort of things. What's to protect them from getting the pin number as well?

**Parrell G:** One thing we suggest is to keep the pin number in your head, keeping it locked in the safe, not carrying it around in your wallet with a note that says: "pin number to the security freeze." Please will have to use common sense. If they disclose their pin number, then somebody is going to lift that freeze if they know the person has placed the freeze. They'll find other ways to steal identity. That possibility exists.

**S Klein asked for statement from Bill Shalhoob**

**Bill Shalhoob**



The comments on "ugly vs. pretty," please remember, ND businesses and people who will do that are going to under this law for 2 years. Given 2 years, we want pretty rather than ugly. We understand the need, the Chamber is in favor of "a bill" for security freezes. Remember, we are dealing with a *billion* transactions. We really WANT you to do this.

**S Hacker:** A billion transactions, absolutely, in striving to get it down to the 15 minutes on the phone helps when you're at Best Buy, you can call in and in 10 min. we'll have your freeze off so you can buy a TV.

**Bill S:** That's correct. As long as 15 min. is a goal. That goal makes it clear you're taking care of your customers.

**CLOSE**

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 1417 C

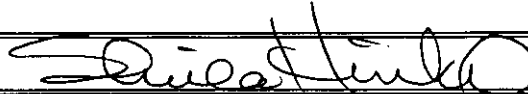
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 14, 2007**

Recorder Job Number: **5039**

Committee Clerk Signature



*Security Freezes on Consumer Credit Reports:*

**S Klein:** This morning there was a copy from the Attorney General's (AG) office.

What we've got here is a little movement from the AG office, amended that would soften one of the issues that would reduce the days from 3 days to 48 hours.

**S Heitkamp:** I spoke to Linda Wurtz about this amendment, and folks from AARP support the amendment. They hope we amend it.

**I move the amendment.**

**Second by S Hacker**

**Roll call on Parrell Grossman Amendment -7-0-0 Passed**

**S Klein:** This may wind up in a Conference committee, but you never know.

**S Hacker:** On page 3, line 21 & 22, that's the goal that we're sending out for legislation. I would take out the comma and put in a period **Made a motion for amendment.**

**Second by S Potter**

**S Heitkamp:** I don't know what it hurts in there Mr. Chairman. I'm going to oppose it. I think the AG got it in there for a reason as a benchmark, it isn't mandatory and it's got some bite to it.

I understand some don't have goals.

**S Andrist:** I agree with S Heitkamp on that.

**S Potter:** I'd like it to be known, sometimes I like goals, and sometimes I don't.

**Hacker Amendment would change the comma to a period and removes the "with the goal process request from 15 min. after the request."**

**Roll vote on the Hacker Amendment – 3-4-0 Fails**

**S Potter:** On page 5, under the fees, I'd like to propose that we change the fee to \$10, which is more in line with other states.

**Motion for Potter amendment to raise \$5 fee to \$10**

**S Klein:** Line 21, page 5, change \$5 to \$10 This is the only fee that changes in the whole process, correct?

**S Potter:** There are other fees they can charge if they don't remember their pin number and those are left at \$5 and I don't want to screw with it.

**S Klein:** This is for the initial sign up?

**S Potter:** Or temporarily lifting the freeze as well.

**Second by S Hacker**

**S Andrist:** If I lose my pin number and have to get it, that's my fault. Here we're saying that the information they gather, without my permission, if I want to protect it, with what they can do with it, I have to pay you for it. I kind of resent the idea that we have to pay \$5, to say nothing of increasing it to \$10. I very strongly resist.

**S Potter:** I don't have a great dog in this fight, this is only for those cases where there is NOT identity theft. If it IS identity theft, then it's free. This is for the people who just want the collection agency, or credit reporting agency, through the paces of putting the freeze on and taking the freeze off and putting it back on. \$5 doesn't seem like enough for anybody.

**S Klein:** Do you feel that in the long run, the consumer gets caught in it anyway? That somehow those folks are going to pass it on either through the bank or in the form of additional fees for loans, these guys are going to make their money that way.

**S Hacker:** That's the reason why I want to support this, is the fact that consumer that wants to put the freeze on will have to help subsidize that cost. The cost should be taken care of by the people using the service.

**S Klein:** It's about 4 gallons of gas.

**S Potter:** Until Memorial day, then it will be 3.

**Potter Amendment: Page 5, line 21, change \$5 to \$10**

**Roll Call on Potter Amendment – 4-3-0 Passed**

**Declines: Andrist, Behm, Heitkamp**

**S Potter:** The effective date, why is it June 1<sup>st</sup>?

**S Hacker:** Do you have an amendment?

**S Potter:** I don't care one way or the other, I'm just curious on the day.

**S Klein:** Is that an emergency?

**S Heitkamp:** It's not an emergency, they want to make sure they have it in place by June.

"Little" Primary... see...

**S Wanzek: Motion for DO PASS AS AMENDED**

**Second by S Hacker**

**S Heitkamp:** This is a failed...it needs to happen on a Federal level. So what we're doing here is doing what we can do and have control to do. I'll vote for it, there's going to be a hodge-podge for those poor businesses who do business over boarder lines and we're creating a mess.

**S Klein:** I agree with that. If you look in 28 states and have 28 different, I just can't imagine on the other end when those folks... that's one of the issues that put our insurance industry in the country at this position in meeting all the standards of uniformity, and that's why the Feds want to take that away. This does mirror MN a bit.

**S Hacker:** I support it, I can give an example of where we're going to see problems. If you put a freeze on your account, go traveling with your family, in Kansas and you find a great deal on a flat-screen TV and you want to finance it. All of sudden they say, "well, there's some sort of freeze on your account, we don't have a law like that." They don't know what's going on, they don't know what to do, they just say you're declined. You don't realize that you have the freeze on it, and now we have to call to get the freeze off. Are you going to carry that phone number with you wherever you go? Who's going to know who to call? Are you going to call some person in an agency in ND? I think this is a headache.

**S Wanzek:** I appreciate that. That would be if you want to APPLY for credit. What if you already have a credit card that you have used?

**S Hacker:** You can, but most financing at Best Buy, they give you great deals if you use their card.

**S Wanzek:** They say, "if you sign up for our card, we'll give you another 10% off" or something like that.

**S Klein:** That may be helpful, so they don't get another credit card.

**S Andrist:** This kind of instant credit is NOT a necessity of life. Most people carry credit cards and if they have a decent credit limit, they can buy a pretty good size TV set. If the World Series is tomorrow and they went for it, I don't see this as being a hardship. I'm going to apply for a freeze and don't expect to ever lift it.

**S Klein:** You'll come to realize how often in these times, I sense in our society now we've become so "instant credit" oriented where you sign up for this....

Years ago, I remember in Penneys when I was in college, you can sign up for a credit card and get a free bottle of soda. I thought, "Wow, that was great," well now they're doing a heck of a lot more than that and especially the younger generation now. Is that a good thing? I think it might be better off in a long run. We are going to regulate the tanning beds, but we aren't going to regulate those.

**S Potter:** Ban the tanning beds. The major issue that we didn't talk about is that it can be done by telephone, rather than in writing. Any appetite in the committee for that?

**S Hacker:** I would like to leave the telephone capability in there if you temporarily want to lift the freeze. You can see the problem in placing and lifting.

**S Klein:** I think it would be better to have it in writing rather than having someone call, trying to identify themselves as S Potter and then maybe answer those questions asked on the account, but I see another issue. I don't think there is a sense on both sides of the chamber that would support another amendment.

**Roll vote on a DO PASS AS AMENDED ON ENGROSSED HB 1417. 7-0-0 passed**

**Carrier: S Hacker**

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1417 D

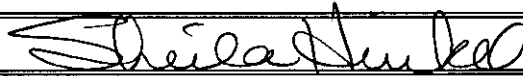
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: **March 19, 2007**

Recorder Job Number: **5243**

Committee Clerk Signature



### ***Security Freeze Bill Re-opened:***

**S Klein:** Bill was on the security freeze. We were asked to take the bill back for more information. There was discussion. I'd like to take this back for more information.

### **Motion made to Reconsider the bill**

**S Heitkamp:** Made a motion to reconsider actions on the bill

**S Wanzek:** 2<sup>nd</sup> on motion

**Voice Vote:** all "aye"

**Parrell Grossman, Director of Consumer Protection and Antitrust Division, Attorney**

### **General Office**

**Wayne Stenehjem, Attorney General spoke**

### **TESTIMONY # 1    *Passed out Amendments***

*Talked about amendments.* We have spoken with Mr. Shalhoob, and come to an arrangement with him. Frankly it is the fee that is put on the bill. First amendment is to change the fee back to the \$5 as originally proposed. Credit agencies had some concern about placing that credit freeze within the 24 hours provided for in the bill. The compromise is 48 hrs. until August 1, 2009, at which time it will revert to 24 hrs. but if problem encountered, then hear it again at the

next Legislature. Minor concern that they would erroneously release information when the freeze was in effect.

**Motion to Move the Amendments**

**S Wanzek: Made a motion to reconsider on amendments.**

**S Potter – 2<sup>nd</sup> on amendments**

**S Potter:** I don't see the change to make it \$5

**Parrell Grossman:** Procedurally, if those have already been made, now we need to amend it back down to the \$5.

**S Klein:** So we need to reconsider those changes to go back.

**Wayne Stenehjem:** Change it back to the way it came over from the House.

**Motion to Reconsider motion to pass these Amendments**

**S Heitkamp**

**Second: S Wanzek**

**S Klein:** We are going to get it back to where it was 5 minutes ago.

**Vote: Unanimous "aye" Motion carried**

**S Klein:** We now have a bill in it's original form, not yet.

**Motion to Reconsider actions on Amendments HB 1417**

**S Wanzek: Made a motion**

**Second: S Heitkamp**

**S Hacker:** There were 2 sets of amendments we adopted. Grossman Amendments and S. Potter and I moved.

**Motion to remove Grossman Amendments**

**S Hacker: Made a motion**

**S Heitkamp: 2<sup>nd</sup>**



**Voice Vote: all "aye" – Carried**

**Motion to remove S Grossman & S Hacker Amendments**

**S Hacker: Made a motion**

**S Heitkamp: 2<sup>nd</sup>**

**Voice Vote: all "aye" - Carried**

**Motion to DO PASS Attorney General's Amendments**

**S Heitkamp: Made a motion**

**S Wanzek: 2<sup>nd</sup>**

**Bill Shalhoob, ND Chamber of Commerce**

**Bill Shalhoob:** working with Attorney General's office, agreed to lower the fee to \$5,

**S Hacker:** Is the \$5 going to cover the cost or not?

**Bill Shalhoob:** I'm not sure \$10 would cover the cost. The rates run \$0 to \$20, we'll run with bulk of states.

**S Hacker:** Will they catch the cost on the other side?

**Bill Shalhoob:** Go for 2 years, we are asking for a language changing to Jan 1, agreed to, look at before the next session before it becomes effective, look at volume and asking for a raise in 2 years

**S Andrist:** There was some discussion in the halls, leave at \$10, but apply to all companies, so total be \$10, is this practical? Like your comment, the thought is if there are 3 companies in this business, there could be more companies in the future.

**Bill Shalhoob:** These companies accept so far, fees cannot be set by them. They do not talk to each other, they are competitors. If some can set at \$5, can some set at \$10, there are issues, where you fix prices together, that is illegal.

**Linda Wurtz AARP ND - In Agreements**

We are happy fee is \$5, people expect it to be free, these companies are aggregating your credit information for FREE and selling it, why do they have to pay for that, \$5 is fair. If our motivation in this bill is to have people use it, it's fair.

**S Klein:** The other members think it is fair?

**Linda W:** Absolutely.

**S Heitkamp:** If we pass this amendment, if we pass this amendment, now will you stop emailing us ?

**Linda W:** Yes

**S Behm:** On your comment, stop emailing us. I had 8 or 10 emails on this. I read my emails.

**Linda W:** Our members are watched more closely on consumer issues, they touch them most personally and immediately. I'm glad that they communicated.

**S Hacker:** Is the cost going to be passed on to consumers?

**Linda W:** As Implemented, sometimes, there is no fee, so \$5 for a couple of computer key strokes. I think this should cover the cost.

**Roll Vote on DO PASS Attorney General's Amendments – 7-0-0 Passed**

**Motion for DO PASS AS AMENDED**

**S Wanzek:** Made a motion

**S Heitkamp:** 2<sup>nd</sup>

**S Hacker:** Just so you know, I'm going to pay for this, you're going to pay for this, this is a pass off for folks who are going to get credit.

**Roll call vote on HB 1417 DO PASS AS AMENDED – 7-0-0 Passed**

**Carrier:** Andrist

Date: 3-14-07

Roll Call Vote: 1

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Motion Amendment, - P.G. Amend

Motion Made By Heitkamp Seconded By Haeberk

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Art	✓	
Senator Hacker, Nick, VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7 No 0

Absent 0

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

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

PARRIS GROSSMAN AMEND.

Date:

### Roll Call Vote

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

**BILL/RESOLUTION NO.** HR 1711

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Amendment

Motion Made By HALLER Seconded By DOTTER

[illegible]

Total Yes 3 No 4 **FAILS**

Absent \_\_\_\_\_

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

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

HACKER  
Replace comma w/perc  
w/in

Date: 3-14-07

Roll Call Vote: 3

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Amendment POTTER

Motion Made By POTTER Seconded By HACKER

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm		✓
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp		✓
Senator John Andrist		✓	Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 4 No 3 PASSED

Absent 0

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

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

Line 21 - change \$5 to \$10  
Pg 5

Date: 3-14-07

Roll Call Vote: 4 FINAL

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR

"ENGROSSED"

Committee

☐ Check here for Conference Committee

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

Action Taken

DO PASS AS AMENDED

Motion Made By

WANZEK

Seconded By

HACKER

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp	✓	
Senator John Andrist	✓		Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 7 No 0

Absent 0

Floor Assignment

HACKER

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

HOED TO SEND IN

Date: 3-19-07

Roll Call Vote : "0"

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Reconsider actions on bill.

Motion Made By Heitkamp Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein			Senator Arthur Behm		
Vice Chair Nicholas Hacker			Senator Joel Heitkamp		
Senator John Andrist			Senator Tracy Potter		
Senator Terry Wanzek					

Total Yes All "aye" No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

Date: 3-19-07

Roll Call Vote: 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Reconsider on amendments

Motion Made By Wanzek Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein			Senator Arthur Behm		
Vice Chair Nicholas Hacker			Senator Joel Heitkamp		
Senator John Andrist			Senator Tracy Potter		
Senator Terry Wanzek					

Total Yes all "aye" No \_\_\_\_\_

Absent Reconsider on amendments

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

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



Date: 3-19-07

Roll Call Vote : 2

## 2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken Back \$5 Raise

Motion Made By Hacker Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein			Senator Arthur Behm		
Vice Chair Nicholas Hacker			Senator Joel Heitkamp		
Senator John Andrist			Senator Tracy Potter		
Senator Terry Wanzek					

Total Yes all - "aye" No \_\_\_\_\_

Absent \_\_\_\_\_

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

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

make go back \$5 instead \$10



Date: 3-19-07

Roll Call Vote: 4 Final

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1417

Senate INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

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

Action Taken DO PASS AS AMENDED

Motion Made By WANZEK Seconded By HEITKAMP

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp	✓	
Senator John Andrist	✓		Senator Tracy Potter	✓	
Senator Terry Wanzek	✓				

Total Yes 7 No 0

Absent \_\_\_\_\_

Floor Assignment Andrist

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

**REPORT OF STANDING COMMITTEE**

HB 1417, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1417 was placed on the Sixth order on the calendar.

Page 2, line 23, replace "twenty-four" with "forty-eight" and replace "notice under section 51-33-02" with ":

- a. A notice under section 51-33-02; and
  - b. A copy of a valid police report, investigative report, or complaint to law enforcement evidencing the identity theft victim has alleged being a victim of identity theft. The copy may be transmitted to the consumer reporting agency by mail, facsimile, or secure electronic mail connection, if the connection is made available by the consumer reporting agency.
2. Effective August 1, 2009, if a victim of identity theft requests a security freeze, a consumer reporting agency shall place a security freeze on the consumer's credit report no later than twenty-four hours after receiving:
- a. A notice under section 51-33-02; and
  - b. A copy of a valid police report, investigative report, or complaint to law enforcement evidencing the identity theft victim has alleged being a victim of identity theft. The copy may be transmitted to the consumer reporting agency by mail, facsimile, or secure electronic mail connection, if the connection is made available by the consumer reporting agency"

Page 2, line 24, replace "2." with "3."

Page 2, line 29, replace "3." with "4."

Page 3, line 28, replace "subdivision" with "section"

Page 3, line 29, after "writing" insert "at least"

Page 8, line 13, replace "violates the security freeze by releasing credit" with "erroneously releases a consumer's credit file or any information derived from the file, the consumer reporting agency shall send written notification to the affected consumer within five business days following discovery or notification of the erroneous release."

Page 8, remove lines 14 and 15

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

HB 1417

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1417**

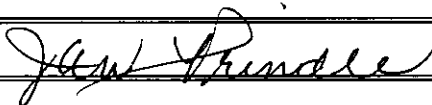
### House Industry, Business and Labor

☒ Check here for Conference Committee

Hearing Date: **5 April 2007**

Recorder Job Number: **5773**

Committee Clerk Signature



Minutes:

**Attending: Representatives Clark, Dietrich, Boe and Senators Andrist, Heitkamp.**

(Senator Wanzek was absent.)

**Representative Clark called the conference committee on HB 1417 to order.** We are here to discuss the amendments the Senate put on this bill. Would someone from the Senate like to discuss those?

**Senator Andrist:** The amendments were worked out by the Attorney General. I will defer to Parrell Grossman to go through them.

**Parrell Grossman, director of the Attorney General's Consumer Protection Division:**

The first amendment relates to the requirement that the victims of identity theft were permitted to have the security freeze put in place within 24 hours after the request. That is presently in place at 48 hours and on August 1, 2009 the requirement would revert to 24 hours. It also specifies the method of delivery to the credit reporting agencies of the law enforcement or valid police report. They can mail those or submit them by facsimile or by electronic mail. Then there is a simple change to replace "subdivision" with "section." That was just a typographical error. Then there is the provision to insert the word "at least" in front of "three business days." I think there was some confusion by the credit reporting agencies that if in fact they were going

to remove a security freeze that had been placed due to a material misrepresentation that it must be done exactly 3 business days prior to that removal and that was not the intent.

**Representative Clark:** At that time they (credit reporting agency) can respond if they get an inquiry about a person's credit. Is there a timeline on that?

**Grossman:** That's a separate provision. Once a security freeze is in place, they can't respond to that without the consumer lifting it. If the consumer wants it lifted, then they have up until 3 days that has been approved by the consumer. Maybe I didn't explain that the best, but under the previous language you potentially had a situation where they released the information and they didn't even know they had released it but technically it was a violation by the fact that they didn't report that they released it. It was a further violation by the fact that they did release it. This changes it to say that it is a violation to release the information when there was supposed to be a security freeze but it's not a separate violation unless they have knowledge that they released it.

**Representative Clark:** I have a question on the time changing to 48 and then in 2008 we change it to 24 hours. What is the difference between 2008 and the current?

**Grossman:** The reason is that the credit reporting agencies expressed some concern about being ready and able to place those freezes by these victims within 24 hours. So, in effect, this is a phase in.

**Senator Andrist:** I would add that most of us felt strongly about the bill. This is a proactive approach to this problem by the Attorney General's office. It needed some committee amendments. We were trying to help them out.

**Senator Heitkamp:** That's true. It's in the art of compromise that these amendments were worked out. There was time given to make it work and in the end I think the Attorney General's office facilitated that.

Page 3

House Industry, Business and Labor

Bill/Resolution No **1417**

Hearing Date: **5 Apr 07**

**Representative Boe:** I think this covers what everybody wanted and everybody is happy with the compromise. I have no problems.

**Representative Dietrich:** I agree. I have no problems with this. **I make a motion the**

**House Accede to the Senate Amendments.**

**Representative Boe:** I second.

**A roll call vote was taken: Yes: 5, No: 0 Absent: 1 (Wanzek)**

**The motion carried and the conference committee was adjourned.**



**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number 1417 (, as (re)engrossed):

Date: 4-5-07

Your Conference Committee FB&L

**For the Senate:**

**For the House:**

	Yes	No		Yes	No
• Sen. Andrist	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Rep. Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Sen. Wanzek	<input type="checkbox"/>	<input type="checkbox"/>	• Rep. Dietrich	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Sen. Heitkamp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	• Rep. Boe	<input checked="" type="checkbox"/>	<input type="checkbox"/>

recommends that the (SENATE~~HOUSE~~) (~~ACCEDE~~) to (RECEDE from)

the (~~Senate~~House) amendments on (SJ/HJ) page(s) 1326 -- 1327

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

\_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

**DATE:** \_\_\_\_\_

**HOUSE CARRIER:** \_\_\_\_\_ **SENATE CARRIER:** \_\_\_\_\_

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

**MOTION MADE BY:** Rep. Dietrich

**SECONDED BY:** Rep. Boe

**VOTE COUNT:** 5 YES 0 NO 1 ABSENT

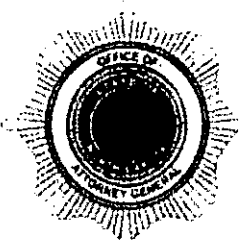
**REPORT OF CONFERENCE COMMITTEE**

**HB 1417, as engrossed:** Your conference committee (Sens. Andrist, Wanzek, Heitkamp and Reps. Clark, Dietrich, Boe) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1326-1327 and place HB 1417 on the Seventh order.

Engrossed HB 1417 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1417



# Identity Theft

Office of Attorney General, Consumer Protection Division  
4205 State Street, Bismarck, ND 58503

Tel: (701) 328-3404; Toll-free (800) 472-2600; TTY (800) 366-6888

Website: [www.ag.nd.gov](http://www.ag.nd.gov)

Submitted by  
Attorney General's  
Office

A

## What Is Identity Theft?

Identity Theft is when someone steals personal and financial information, such as your name, social security number, or account number, and uses that information to:

- Open credit accounts in your name, or run up your existing accounts;
- Obtain loans in your name, which are not repaid;
- Open bank accounts in your name and write bad checks;
- Commit crimes, resulting in warrants being issued in your name.

Besides basic information such as name and social security number (SSN), thieves look for addresses, dates of birth, mother's maiden name, a driver's license number, credit card and bank account numbers, and telephone calling cards.

## Identity Thieves:

- Look through your trash for canceled checks, bank statements and pre-approved credit card applications;
- Use technology to steal your personal and financial information;
- Use e-mail to trick you into providing your account number and other personal information;
- Pretend to be company officials, to con you into revealing personal information.

When your credit is gone, the thief moves on, leaving you to sort out the devastating consequences. Your information might even be sold to another thief to use later.

## Protect Yourself:

- If your driver's license number is your SSN, you may wish to get a new license. Your SSN accesses your credit history, criminal, medical and school records, credit cards, bank accounts, financial records and social security benefits.
- Remove "extra" information from your checks. A merchant cannot require you to write your SSN or date of birth on a check, and you can choose not to provide your phone number.
- Never respond to an e-mail asking you to confirm or verify account information, even if it looks official. Instead, call the customer service number listed on the company's billing statement to check the account.
- Never give out your credit card number or other personal information over the telephone unless you initiated the call and you are sure it is a reputable company. Shop online only if the site is secure.
- Shred financial records and pre-approved credit applications before throwing them away. Check your financial statements, credit card and other bills as soon as you get them. Report discrepancies immediately.

## Identity Theft can happen to anyone.

**Information for Victims:** If you are a victim of identity theft, you have certain protections available under the law. You must, however, immediately take these four steps to start the process:

1. **File a report with your local law enforcement agency.** Ask for a copy of the police report, or the complaint number.
2. **File a report with the Attorney General's office.** The Attorney General's office is North Dakota's clearing house for identity theft. We will provide you with the information and forms you need to document the theft and restore your credit.
3. **Report the fraud to one of the credit bureaus.** Request a "fraud alert" be placed in your file, to stop creditors opening any new accounts or changing your existing ones. Always follow up with a letter. Order a free credit report from each credit bureau, so you can check for other fraudulent accounts.
4. **Close accounts that have been tampered with or opened fraudulently.** Speak to the security or fraud department of each creditor, and follow up with a letter. "Creditor" can include credit card and telephone companies, utilities, banks and other lenders.

### **Contact the Credit Bureaus:**

#### **Equifax**

- PO Box 740241, Atlanta, GA 30374-0241
- Website: [www.equifax.com](http://www.equifax.com)
- Toll-free: 800-525-6285

#### **Experian**

- PO Box 9530, Allen, TX , 75013
- Website: [www.experian.com](http://www.experian.com)
- Toll-free: 888-397-3742

#### **Trans Union**

- PO Box 6790, Fullerton CA 92634
- Website: [www.transunion.com](http://www.transunion.com)
- Toll-free: 800-680-7289

Identity theft is a serious crime. People whose identities have been stolen can spend months or years — and their hard earned money — cleaning up the mess the thieves have made of their good name and credit record. Some victims have lost job opportunities, been refused loans for education, housing or cars, or even been arrested for crimes they didn't commit. While you cannot completely control whether you will become a victim, you can minimize your risk by managing your personal information cautiously.

---

This fact sheet is not intended to cover every situation. The Office of Attorney General is prohibited by law from providing legal advice. Report suspected consumer fraud by calling 1-800-472-2600 or your local law enforcement agency.

## **OPT-OUT INFORMATION**

To opt-out of receiving pre-approved credit card applications by telephone call

**888-567-8688**

or go on line at

**www.optoutprescreen.com**



## **HOW TO REGISTER FOR DNC**

Call from the phone number you wish to register

**888-382-1222**

Or online at

**www.ag.state.nd.us**

How To Get Your  
Free Credit  
Report

## **FREE CREDIT REPORTS**

Available to all consumers once a year from each of the three major credit reporting agencies. Get your copy by doing one of the following: Access **www.annualcreditreport.com** Or Call

**877-322-8228**

Or Complete the Annual Credit Report Request Form found at

**www.ftc.gov/credit**.

Mail the completed form to:

**Annual Credit Report Request Service**

**PO Box 105281**

**Atlanta, GA 30348-5281**



## Instructions for completing the ID THEFT AFFIDAVIT



To make sure that you do not become responsible for the debts incurred by the identity thief, you must provide proof that you didn't create the debt to each of the companies where accounts were opened or used in your name.

The **Identity Theft Affidavit** was developed by the Federal Trade Commission (FTC) and has now been implemented by the North Dakota Attorney General to help you report information to many companies using just one standard form.

While many companies accept this affidavit, some may require you to submit additional information or forms. You may wish to contact each company before you send out the affidavit.

The information you provide will help the companies investigate the fraud and decide the outcome of your claim.

**This affidavit has TWO parts:**

- ▶ **ID Theft Affidavit** is where you report general information about yourself and the theft;
- ▶ **Fraudulent Account Statement** is where you describe the fraudulent account(s) opened in your name. Use a separate Fraudulent Account Statement for each company you contact.

When you send the affidavit to the companies, attach copies (**NOT** originals) of any supporting documents in your possession (for example, drivers license, police report).

**Complete this affidavit as soon as possible.** The longer you wait, the more money the thief can steal from you.

**Be as accurate and complete as possible.** You may choose not to provide some of the information requested. However, incorrect or incomplete information may slow the investigation of your claim. **Please print clearly.**

**When you have completed the affidavit, you must first send it to the Attorney General's office.** The Attorney General will file the original and return a validated copy to you. You then mail a copy to every creditor, bank or company that provided the thief with the unauthorized credit, goods or services, along with a separate **Fraudulent Account Statement** (p. 5) for each company.

**Send the appropriate documents to each company by certified mail, return receipt requested,** so you can prove it was received. The companies will review your claim and send you a written response telling you the outcome of their investigation. **Keep a copy of everything you submit for your records.**

Except as noted, the information you provide will be used only by the company to process your affidavit, investigate the events you report, and help stop further fraud.

Completing this affidavit does not guarantee that the identity thief will be prosecuted or that the debt will be cleared.

If you haven't already done so, contact:

1. **The national consumer reporting agencies.** You need only notify one agency because it is required by law to share that information with the other two agencies. However, you may prefer to contact each agency yourself.

▶ **Equifax Credit Information Services, Inc.**

PO Box 740241

Atlanta, GA 30374-0241

(800) 525-6285/ TDD 1-800-255-0056 and ask the operator to call the Auto Disclosure Line at 1-800-685-1111 to obtain a copy of your report.

[www.equifax.com](http://www.equifax.com)

▶ **Experian Information Solutions, Inc.**

PO Box 9530

Allen, TX 75013

(888) 397-3742/ TDD (800) 972-0322

[www.experian.com](http://www.experian.com)

▶ **TransUnion**

Fraud Victim Assistance Division

PO Box 6790

Fullerton CA 92634-6790

(800) 680-7289/ TDD (877) 553-7803

[www.transunion.com](http://www.transunion.com)

Call the agency's automated telephone system to place a **"fraud alert"** on your credit report, and send you a copy of your credit file. When you have completed your affidavit packet, you may want to send the agency a copy to help it investigate the disputed accounts.

2. **The fraud department at each creditor, bank, or utility/service** that provided the identity thief with unauthorized credit, goods or services. This would be a good time to find out if the company accepts this affidavit, and whether it will require a copy of the police report.
3. **Your local police department.** Ask the officer to take a report and give you a copy of it. Sending a copy of your police report to financial institutions can speed up the process of removing inaccurate information from your credit reports. If you can't get a copy, at least get the number of the report.
4. **The FTC**, which maintains the Identity Theft Data Clearinghouse—the federal government's centralized identity theft complaint database—and provides information to identity theft victims. You can visit [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft), or call toll free 1- 877-ID-THEFT (1-877-438- 4338).

The FTC also collects complaints from identity theft victims and shares their information with law enforcement nationwide. This information also may be shared with other government agencies, consumer reporting agencies, and companies where the fraud was perpetrated to help resolve identity theft related problems.





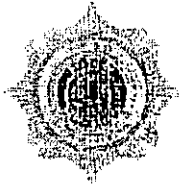
**North Dakota Attorney General  
Wayne Stenehjem**



**Office of Attorney General  
ID Theft Affidavit**

**Victim Information**

1. Full Legal Name:			
First:	Middle:	Last:	Jr/Sr/III:
2. (If different from above) When the events described in this affidavit took place, I was known as:			
First:	Middle:	Last:	Jr/Sr/III:
3. Date of Birth:		4. Social Security Number:	
5. Driver's license or identification card state and number are:			
6. Current Address:		City:	State: Zip:
7. I have lived at this address since: (Month/Year)			
8. (If different from above) When the events described in this affidavit took place, my address was:			
Address:		City:	State: Zip:
9. I lived at the above address from:		to (Month/Year) (Month/Year)	
10. Daytime telephone number is: (Include area code)			
11. Evening telephone number is: (Include area code)			



**Wayne Stenehjem, Attorney General**



Name: \_\_\_\_\_

Phone: \_\_\_\_\_

**How the Fraud Occurred**

Check all that apply for items 11-16:

11. ☐ I did not authorize anyone to use my name or personal information to seek the money, credit, loans, goods or services described in this report.
12. ☐ I did not receive any benefit, money, goods or services as a result of the events described in this report.
13. ☐ My identification documents (e.g. credit cards; birth certificate; driver's license; social security card; etc.) were ☐ stolen ☐ lost on or about: \_\_\_\_\_  
(Month/Year)
14. ☐ To the best of my knowledge and belief, the following person(s) used my information (for example, name, address, date of birth, social security number, existing account numbers, etc.) or identification documents to get money, credit, loans, goods or services without my knowledge or authorization:

Name (if known) \_\_\_\_\_

Name (if known) \_\_\_\_\_

Address (if known) \_\_\_\_\_

Address (if known) \_\_\_\_\_

Phone number(s) (if known) \_\_\_\_\_

Phone number(s) (if known) \_\_\_\_\_

Additional information (if known) \_\_\_\_\_

Additional information (if known) \_\_\_\_\_

15. ☐ I do NOT know who used my information or identification documents to get money, credit, loans, goods or services without my knowledge or authorization.
16. ☐ Additional comments (for example, description of the fraud, which documents or information were used, or how the identity thief gained access to your information):

(Attach additional pages as necessary)



**Wayne Stenehjem, Attorney General**



Name: \_\_\_\_\_

Phone: \_\_\_\_\_

**Victim's Law Enforcement Actions**

17. (check one) ☐ I am ☐ I am not willing to assist in the prosecution of the person(s) who committed this fraud.
18. (check one) ☐ I am ☐ I am not authorizing the release of this information to law enforcement for the purpose of assisting them in the investigation and prosecution of the person(s) who committed this fraud.
19. (check all that apply) ☐ I have ☐ I have not reported the events described in this affidavit to the police or other law enforcement agency. The police ☐ did ☐ did not write a report. In the event you have contacted the police or other law enforcement agency, please complete the following:

(Agency #1)

(Officer/Agency taking report)

(Date of report)

(Report number, if any)

(Phone number)

(E-mail address, if any)

(Agency #2)

(Officer/Agency taking report)

(Date of report)

(Report number, if any)

(Phone number)

(E-mail address, if any)

**Documentation Checklist**

Please indicate the supporting documentation you are able to provide to the companies you plan to notify. Attach copies (NOT originals) to the affidavit before sending it to the companies.

20. ☐ A copy of a valid government-issued photo-identification card (for example, your driver's license, state issued ID card or your passport). If you are under 16 and don't have a photo ID, you may submit a copy of your birth certificate or a copy of your official school records showing your enrollment and place of residence.
21. ☐ Proof of residency during the time the disputed bill occurred, the loan was made, or the other event took place (for example, a rental/lease agreement in your name, a copy of a utility bill or a copy of an insurance bill).
22. ☐ A copy of the report you filed with the police or sheriff's department. If you are unable to obtain a report or report number from the law enforcement agency, please indicate that in (19). Some companies only need the report number, not a copy of the report. You may want to check with each company.



**Wayne Stenehjem, Attorney General**



Name: \_\_\_\_\_

Phone: \_\_\_\_\_

**Signature**

**YOUR SIGNATURE MUST BE NOTARIZED**

I declare under penalty of perjury that the information I have provided in this affidavit is true and correct to the best of my knowledge.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date signed)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission expires:

Knowingly submitting false information on this form could subject you to criminal prosecution for perjury.

**For Office Use Only**

Received and filed: \_\_\_\_\_

Document No: \_\_\_\_\_

\_\_\_\_\_  
Parrell D. Grossman, Director  
Office of Attorney General  
Consumer Protection Division  
4205 State Street  
P.O. Box 1054  
Bismarck ND 58502-1054  
(701) 328-3404



Wayne Stenehjem, Attorney General



## Fraudulent Account Statement

### Completing this Statement

- ▶ Make as many copies of this page as you need. Complete a **separate page** for each company you are notifying and **only send it to that company**. Include a copy of your signed affidavit (pages 1-4).
- ▶ List only the account(s) you are disputing with the company receiving this form (see example below).
- ▶ If a collection agency sent you a letter or notice about the fraudulent account, attach a copy of that document (**NOT** the original).

I declare (check all that apply):

- ☐ As a result of the events described in the ID Theft Affidavit, the following account(s) was/were opened at your company in my name without my knowledge, permission, or authorization using my personal information or identifying documents:

Creditor Name/Address (the company that opened the account or provided the goods/services)	Account Number	Type of unauthorized credit/goods or services provided by creditor (if known)	Date issued or opened	Amount/Value (\$)
EXAMPLE: Example National Bank 22 Sample Street, Bismarck ND 58505	01-23456- 789	auto loan	1/5/04	\$32,700

- ☐ During the time of the account(s) described above, I had the following account open with your company.

Billing Name	Billing Address	Account Number

## IDENTITY THEFT CONTACT LOG

DATE	TIME	BUSINESS & ADDRESS	# CALLED / EXTENSION	CONTACT PERSON / TITLE	RESOLUTION / COMMENTS

#1

HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
REPRESENTATIVE GEORGE KAISER, CHAIRMAN  
JANUARY 23, 2007

TESTIMONY BY  
PARRELL D. GROSSMAN  
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION  
OFFICE OF ATTORNEY GENERAL

Mr. Chairman and members of the House Industry, Business, and Labor Committee. I am Parrell Grossman, Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on the Attorney General's behalf in support of House Bill 1417.

According to the FTC there are approximately 10 million identity theft (ID theft) victims each year. According to the Privacy Rights Clearinghouse, in 2006, the number of U.S. victims of identity fraud was 8.9 million, the total fraud amount was \$56.6 billion, the average fraud amount per victim was \$6,383, and the average victim resolution time was 40 hours.

The Attorney General's Consumer Protection Division acts as a clearinghouse for ID theft complaints in North Dakota, approving Affidavits of Identity Theft and assisting ID theft victims. This matter is a high priority for the Attorney General. In addition to assisting ID theft victims, his office conducts approximately 50 identity theft consumer education presentations each year.

When consumers' confidential personal and financial information is compromised or stolen, they are very vulnerable to ID theft. All of you are aware of the very serious consequences of ID theft to victims. I won't address in detail the entire "parade of horrors" involving the loss of employment opportunities, the sudden inability to obtain a mortgage to purchase a dream home, or the humiliation of having your check or credit card declined in a checkout line with a cart full of holiday presents for your kids. However, ID theft victims do experience these consequences. The Attorney General has worked with one North Dakota victim that was prohibited by federal authorities from purchasing any firearms, including hunting guns, because an ID thief committed crimes in his name, that are now associated with the victim's Social Security Number. ID theft victims may spend as much as a hundred hours or more trying to correct the problems, rehabilitate their damaged creditworthiness, and get their lives back in order.

25 states currently have security freeze legislation. 20 states provide all their residents with the optional ability to place a security freeze. 5 states limit the security freeze to identity theft victims. North Dakota's proposed legislation applies to all our consumers, not just identity theft victims. Consumers don't have to wait until after their first accident loss to purchase insurance and should not have to experience a "financial wreck" before being protected by a security freeze.

This legislation grants each North Dakota consumer the right to prevent a credit reporting agency from issuing a credit report or credit score for the purpose of providing new credit or opening new accounts. The North Dakota legislation uses the term "credit file," which includes the credit report and the credit score.

However, there are some exceptions. A security freeze does not apply to requests for a copy of a consumer's credit report by existing creditors for account review, maintenance, monitoring, credit line increases, collections, or similar activities. For instance, it also does not apply to governmental entities; collection agencies acting under a court order; prescreening; or a credit reporting agency for the purposes of criminal record information, tenant screening, employment screening, and fraud prevention or detection.

This legislation is not limited to the "extension of credit" and applies to all types of new account fraud. Identity thieves fraudulently open a wide variety of accounts, including loans, credit cards, checking accounts, Internet accounts, telephone service and other utility accounts, housing rental, property rental, and "other" accounts. According to the Federal Trade Commission (FTC), 35.3% of the 2005 identity theft complaints involved situations other than the extension of credit, but, nonetheless, involved the victim's credit report. This particular grouping includes phone or utilities fraud, employment fraud, Internet accounts, medical accounts, apartment and house rental, property rental, and insurance accounts. For comparison, the same report indicates that only 15.6% of the complaints involved new credit card accounts, and 3.3% of the complaints involved new bank accounts.

A security freeze would prevent most types of new account fraud, because it stops or "freezes" access to consumer credit files. ID thieves must check a consumer's credit file (credit report or credit score, or both) in order to obtain credit or open a new account in the victim's name. Once consumers have placed a freeze, they can then temporarily lift (or thaw) the freeze, granting access to their credit reports using a unique PIN or personal identification number. ID thieves can't obtain access to the potential victim's credit files, and their fraudulent applications will be denied due to the security freeze.

The consumer can place the freeze by mail, telephone, or secure electronic mail, if made available by the credit reporting agency.

The consumer reporting agency ("CRA") must place the freeze on the consumer's credit file no later than 3 business days after receiving the request. The freeze for identity theft victims must be placed within 24 hours after receiving the request. The CRA must send the consumer, within 5 days, written confirmation of the freeze and a unique PIN or personal identification number or password to be used for the temporary lifting or "thaw" of the freeze. A CRA must lift the freeze at the consumer's request no later than 3 business days after receiving the request.



In this legislation a CRA may charge a consumer up to \$5.00 for placing or temporarily lifting the freeze, but may not charge a victim of Identity theft any fees for placing or lifting.

The fees established by other states vary. Many states have a maximum of \$10. Minnesota permits \$5. In Colorado there is no fee for the first placement. New Jersey provides a free freeze, with a \$5 fee for the use of the freeze. Louisiana provides the freeze for free for residents over 62 and Oklahoma provides free placement or removal for age 65 or over.

North Dakota consumers are very vulnerable to identity theft. My own personal and confidential information has recently been compromised in several instances. In September, 2006 I learned that someone opened an unauthorized credit card in my name pursuant to a fraudulent application via the Internet. After receiving several other complaints from consumers involving the same credit card company, the Consumer Protection Division initiated an investigation. The company initially was reluctant to conclude there was a problem. I insisted the credit card company run a computer query on Internet applications for North Dakota credit cards issued during an approximate one month period. The company reviewed its records and, as a result of contacting North Dakota credit cardholders, discovered approximately 400-500 of such fraudulent accounts. The credit card company referred the matter to federal law enforcement and I believe the investigation is continuing.

North Dakota consumers are now subject to what I refer to as the "security breach" of the month. Sometime in 2006 LexisNexis suffered a security breach. The number of affected North Dakota consumers was approximately 3,800. Compared to the population of other states, the number of affected North Dakota consumers was among the highest in the country. It is becoming more common for our consumers, including me, to receive such notifications. We just learned that TJX Company, who owns T.J. Maxx stores, suffered a breach involving credit card numbers, debit card numbers, and driver's license information. This company has not even officially notified the Attorney General or any affected North Dakota consumers that such a breach occurred.

The Attorney General believes this security freeze legislation will be a very important and effective tool in protecting consumers from identity theft, credit card fraud, etc. The Attorney General recognizes a security freeze won't be the cure-all for identity theft, credit account, or other account fraud. However, this legislation definitely provides consumers the ability to have more control over access to their credit reports or credit files and to substantially reduce the risk of ID theft or unauthorized loans, credit cards, utility, and cell phone accounts, etc. Financial entities, stores, etc. are not likely going to issue new loans, credit card accounts, or charge card accounts to ID thieves who are not able to authorize access to the victim's credit file. Regardless whether these ID thieves already have Social Security Numbers, birth dates, or other personal or confidential information, it will be useless without the potential victim's unique PIN (personal identification number) granting access to the credit report.

Consumers who choose to place a security freeze must understand the procedures involved in lifting a security freeze may slow the approval of their own applications for credit or new accounts. Consumers who place the security freeze will have to weigh the merits of the additional protection against possible inconvenience. It will be an individual choice and many consumers may decide to not place a security freeze. The Attorney General will conduct consumer education regarding security freezes, as well as partnering with financial entities in educating consumers about the placement of security freezes and the potential delays in the extension of credit or new accounts.

The Attorney General respectfully asks the House Industry, Business and Labor Committee to give House Bill 1417, a "Do Pass" recommendation.

Thank you for your time and consideration. I would be pleased to try and answer any questions.

g:\cpatt\parrell\legislation 2007\security freeze\hb 1417 house testimony.doc



**House Industry, Business, and Labor Committee**  
**HB 1417**  
**January 23, 2007**

Chairman Keiser and members of the committee, my name is Linda Johnson Wurtz, Associate State Director for Advocacy for AARP North Dakota. Today, on behalf of our 79,600 North Dakota members, I stand in support of HB 1417.

Twenty-five states currently have security freeze legislation. Several more states are looking at the possibility this year. AARP supports this legislation because the older population is so often targeted for identity theft. Plus, older victims report more of the various types of fraud that results from a stolen identity, including new credit cards, loans, telephone service and other utilities, checking accounts, internet accounts, insurance, housing rental, and other new lines of credit. (Attachment)

Most types of new account fraud are preventable with security freeze. In order for an identity thief to get credit or open a new account, the entity being asked for services must check the consumer's credit file. With a security freeze...your information is locked away until you want to use it.

HB 1417 is one of the best bills we have seen regarding security freeze. It is easy for consumers to put to use. We appreciate the goal of 15 minutes when a consumer requests the freeze to be lifted. The fees are reasonable, because we must take into consideration the amount will need to be multiplied by three, as there are three major credit reporting companies. And most importantly, it is a tool that will be available to every consumer.

At a time when “phishing” and “pharming” and endless databases are making all of us more susceptible to fraud and identity theft, we appreciate this means of added protection for North Dakotans.

## IDENTITY THEFT: AN UPDATE ON THE EXPERIENCE OF OLDER COMPLAINANTS

## Key Findings

In 2003, the AARP Public Policy Institute issued a report examining 2001 identity theft complaint data from the Federal Trade Commission (FTC).<sup>1</sup> This Data Digest updates that report using the latest data (2003) from the FTC's Identity Theft Data Clearinghouse. Our analysis shows that complainants age 50 and older were more likely to report several different identity theft crimes than were the all-complainants group. These crimes include:

- *Existing Credit Card Account Fraud*  
Fraudulently using a complainant's existing credit card account.
- *New Credit Card Account Fraud*  
Fraudulently establishing a new credit card account in the complainant's name.
- *Attempted Identity Theft*  
Stealing a complainant's identifying information and using it in unsuccessful attempts to commit fraud.

In addition, the analysis found that the District of Columbia had the highest per capita rate of identity theft for complainants age 50 and older, followed by Nevada, California, Arizona, Texas, New York, Colorado, Oregon, Florida, and Michigan.

## Introduction

The extent and cost of identity theft have made this crime a topic of great concern to policymakers, consumers, and businesses alike. A 2003 national survey sponsored by the FTC estimates that approximately 10 million Americans were victimized by identity theft in the year prior to the study.<sup>2</sup> The study estimates

that the financial cost of identity theft to businesses during this period reached almost \$50 billion, while the cost to individual victims was \$5 billion.<sup>3</sup>

Identity theft occurs when someone steals an individual's personal identifying information (for example, name, Social Security number, date of birth, or mother's maiden name) and uses it to commit fraud or engage in other unlawful activities.<sup>4</sup> Often, the thief uses this stolen information to establish credit, run up debt, or take over existing financial accounts. As a result, identity theft is referred to as an enabling crime since it enables criminals to commit other crimes, such as credit card or bank fraud.<sup>5</sup>

Typically, identity theft damages the victim's credit, making it difficult for the victim to buy a home or car, rent an apartment, obtain employment, or purchase insurance. Victims often spend substantial amounts of time and money to undo the damage done by the identity theft.

Policymakers have introduced a wide array of legislation to combat identity theft, at both the state and federal levels. For example, legislation related to identity theft was introduced in 32 states in the first four months of 2004.<sup>6</sup> At the federal level, the recently enacted Fair and Accurate Transactions Act of 2003<sup>7</sup> contains a number of measures designed to help prevent

<sup>3</sup> Ibid.

<sup>4</sup> U.S. General Accounting Office (GAO). *Identity Theft: Prevalence and Cost Appear to be Growing* (March 2002).

<sup>5</sup> Testimony of James G. Huse, Jr. (Inspector General of the Social Security Administration), before the U.S. Senate Special Committee on Aging (July 18, 2002).

<sup>6</sup> Pending state legislation as of April 19, 2004, as summarized by the National Conference of State Legislatures. [http://www.ncsl.org/programs/lis/privacy/IDTheft2004\\_Pending.htm](http://www.ncsl.org/programs/lis/privacy/IDTheft2004_Pending.htm). (Retrieved May 25, 2004).

<sup>7</sup> Signed into law December 4, 2003. This act amends the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*

<sup>1</sup> N. Walters and A. Jackson. "Identity Theft: Experience of Older Complainants." AARP Public Policy Institute. DD 85 (March 2003). [http://research.aarp.org/consume/dd85\\_idtheft.html](http://research.aarp.org/consume/dd85_idtheft.html)

<sup>2</sup> Federal Trade Commission (FTC). *Identity Theft Survey Report* (September 2003). <http://www.ftc.gov/os/2003/09/synovatereport.pdf>

identity theft and aid victims of identity theft in restoring their credit.<sup>8</sup>

Concerns regarding identity theft have also led consumers to take action to protect themselves against such theft. A 2003 AARP survey<sup>9</sup> found that 98 percent of consumers age 45 and older took some sort of action to protect their identity and credit. These actions included shredding credit card receipts and other financial documents, limiting the number of identification cards carried on their person, and routinely reviewing credit card and other financial statements.

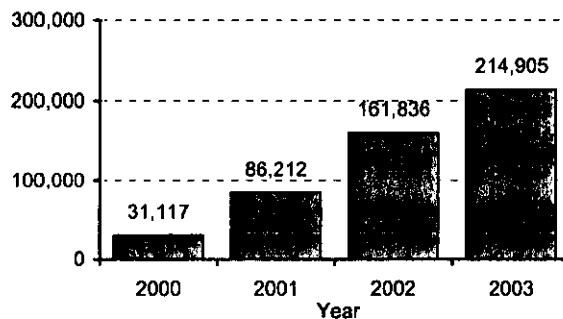
Businesses have also responded to increasing concerns about identity theft. Several businesses have started free programs to assist customers who become identity theft victims.<sup>10</sup> Other businesses promote a range of services that, for a fee, promise to help protect consumers against identity theft. These services often involve providing access to credit reports, e-mail alerts indicating changes in credit status, and insurance to cover the expenses of those who do become victims of identity theft.<sup>11</sup>

### Methodology

The primary source of data on the prevalence of identity theft is the FTC's Identity Theft Data Clearinghouse, established under the Identity Theft Assumption Deterrence Act of 1998. Since the inception of the database, the FTC has reported a substantial increase in the number of

identity theft complaints to its Clearinghouse hotline (Figure 1).<sup>12</sup>

**Figure 1.**  
**Identity Theft Data Clearinghouse Complaints, by Year**



Source: AARP Public Policy Institute

Data analyzed for this update are taken from special tabulations of 2003 complaint data gathered through the Identity Theft Data Clearinghouse by the FTC for the AARP Public Policy Institute.<sup>13</sup> Complaint data are based on self-reporting<sup>14</sup> by the complainant to either the FTC or another agency that subsequently forwarded the complaint to the FTC. The 2003 data report on 214,905 identity theft complainants, with 197,475 complainants reporting age information. The complaint data were divided into three groups: all complainants (214,905 complainants), complainants 50–64 years of age (31,989 complainants), and complainants age 65 and older (12,400 complainants).

### Findings

#### Age Distribution of Complainants

Among complainants reporting age, more than three-fourths (78%) were younger than 50 years old, while 16 percent were 50–64 years of age, and 6 percent were 65 years of age or older (Figure 2).

<sup>8</sup> These measures include truncating debit and credit card numbers, truncating the consumer's Social Security number, requiring fraud alerts to be placed in the victim's credit file, requiring credit bureaus to block identity theft-related accounts, and providing all consumers with one free annual credit report from the national credit bureaus.

<sup>9</sup> AARP. "2003 Consumer Experience Survey: Insights on Consumer Credit Behavior, Fraud and Financial Planning" (October 2003).  
[http://research.aarp.org/consume/cons\\_exp\\_1.html](http://research.aarp.org/consume/cons_exp_1.html)

<sup>10</sup> E. Alt Powell. "Financial Institutions Set up Programs to Help Deal with ID Theft." Associated Press (April 14, 2004). In addition, a group of the country's largest financial institutions is setting up a pilot program, called the Identity Theft Assistance Center (ITAC), to provide a central source for identity theft victims to receive assistance.

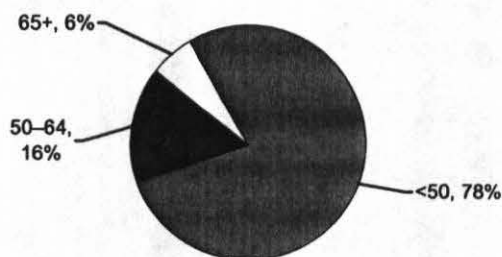
<sup>11</sup> B. Bergstein. "As Identity Theft Jumps, So Do Costly Monitoring Services." Associated Press (May 19, 2004).

<sup>12</sup> Data from FTC Clearinghouse Reports: Figures and Trends on Identity Theft; available at:  
<http://www.consumer.gov/idtheft/stats.html>.

<sup>13</sup> Access to Clearinghouse data is restricted to FTC staff and law enforcement agencies. The FTC report is entitled "Identity Theft Victim Complaint Data: Figures and Trends on Identity Theft for AARP January 1–December 31, 2003" (March 2004).

<sup>14</sup> Because data used in this report are self reported, they may not necessarily reflect overall or national trends.

**Figure 2.**  
2003 Identity Theft Complainants, by Age Groups



Source: AARP Public Policy Institute. N=197,475

### Types of Identity Theft Fraud

The FTC groups identity theft crimes into a number of different fraud types. Table 1 lists the general fraud types identified by the FTC and the total number of complaints from all complainants in 2003.

**Table 1.**  
Types of Identity Theft Reported to the FTC in 2003

Theft Types	All Complainants	
	Number of Complaints	Percent of All Complainants*
Credit Card Fraud	69,948	32%
Phone or Utilities Fraud	45,548	21%
Bank Fraud	37,412	17%
Employment-Related Fraud	23,878	11%
Loan Fraud	11,915	6%
Government Documents/Benefits Fraud	17,483	8%
Other Identity Theft Fraud	41,453	19%
Attempted Identity Theft Fraud	17,110	8%
<b>Number of Complainants</b>	<b>N=214,905</b>	

\* Total percentages exceed 100 because approximately 19 percent of complainants experienced more than one type of identity theft.

### Credit Card Fraud

#### All Complainants

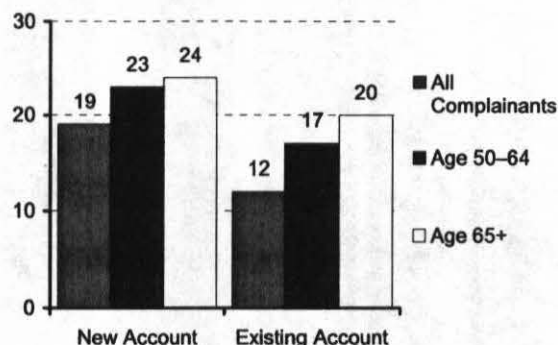
Thirty-two percent of all complainants reported that their stolen personal information was used to commit credit card fraud. Of this group, 19 percent reported that their information was used to establish new credit, while 12 percent reported their information was used to access existing credit accounts (see Figure 3).<sup>15</sup>

<sup>15</sup> One percent did not specify the type of credit card fraud.

#### Complainants Age 50-64

Forty percent of complainants age 50-64 reported that their stolen information was used to commit credit card fraud. Of this group, 23 percent reported that their information had been used to establish new credit, while 17 percent reported that their information was used to access existing credit accounts (see Figure 3).

**Figure 3.**  
Credit Card Fraud, by Type



All Complainants N=214,905 50-64 N=31,989 65+ N=12,400

Source: AARP Public Policy Institute

#### Complainants Age 65+

Forty-four percent of complainants age 65 and older reported that their stolen information was used to commit credit card fraud. Of this group, 24 percent reported that their information had been used to establish new credit, while 20 percent reported that their information was used to access existing credit accounts (Figure 3).

### Attempted Identity Theft Fraud

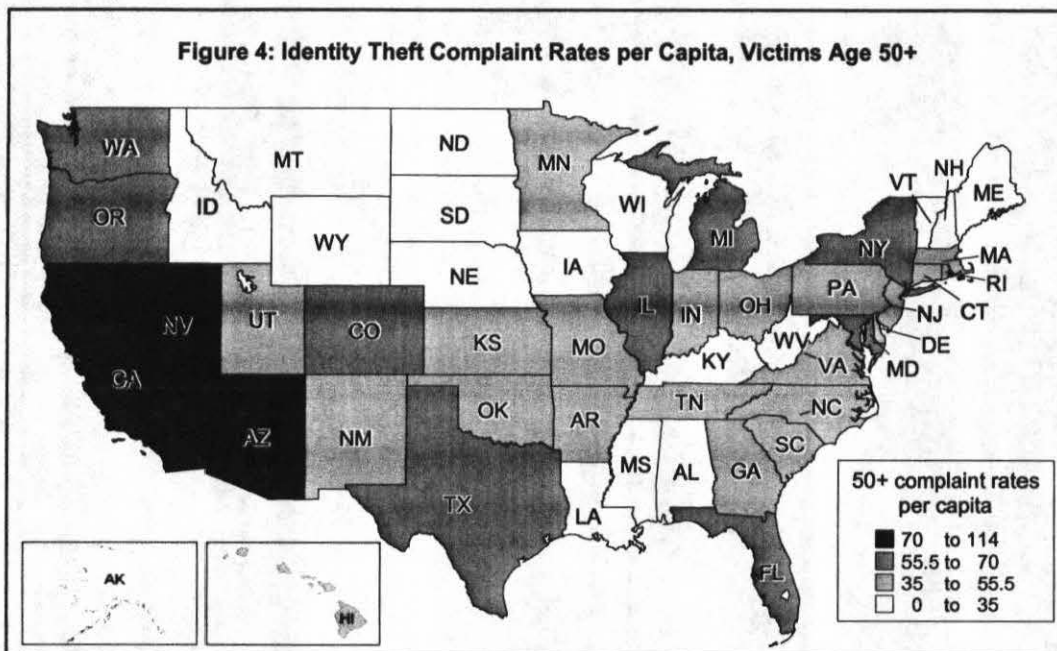
#### All Complainants

Eight percent of all complainants reported that their personal information had been stolen and used in an attempt to commit fraud, but the thief was unsuccessful in his or her attempts to use the information to commit fraud.

#### Complainants Age 50-64

Twelve percent of complainants age 50-64 reported attempted identity theft fraud. Complainants in this age group reported this crime 1.5 times as often as did complainants in the all-complainants group.

**Figure 4: Identity Theft Complaint Rates per Capita, Victims Age 50+**



#### *Complainants Age 65+*

Fourteen percent of complainants age 65 and older reported attempted identity theft fraud. Complainants in this age group reported this crime 1.75 times as often as did complainants in the all-complainants group.

#### Identity Theft in the States

Based on 2003 FTC complaint data and 2003 census data, per capita rates<sup>16</sup> of identity theft can be calculated for complainants age 50 and older by state (and the District of Columbia).

**Table 2.  
Top States for 50+ Identity Theft**

States	Age 50+ Complainants per Capita
District of Columbia	113.1
Nevada	97.8
California	91.0
Arizona	81.5
Texas	68.5
New York	66.6
Colorado	66.0
Oregon	65.7
Florida	65.6
Michigan	65.4
National Average	55.3

<sup>16</sup> Per capita rates are calculated per 100,000 persons 50 years of age or older in each state (and the District of Columbia) based on AARP analysis of 2003 U.S. census population estimates.

Figure 4 illustrates the per capita rates of identity theft for the 50+ population of each state.

Table 2 lists the states with the highest per capita rates of identity theft for complainants who are age 50 and older.

#### **Conclusion**

While identity theft has received a great deal of attention in the past few years, we still have much to learn about the crime. Current data sources give some indication of the prevalence of identity theft; however, we need more detailed information about the nature of such theft. Increasing our understanding of identity theft will enable us to determine how successful various prevention and enforcement policies are and allow for development of more effective strategies for combating identity theft.

Written by Neal Walters  
AARP Public Policy Institute, October 2004  
601 E Street NW  
Washington, DC 20049  
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TESTIMONY OF PATRICK WARD IN SUPPORT OF HB 1417 AS AMENDED

Good afternoon Chairman Keiser and Members of the House Industry, Business and Labor Committee:

My name is Patrick Ward and I represent PCI and State Farm. I am here to testify in support of HB 1417 with the proposed amendment. The amendment we propose adds entities that use information for insurance purposes, to the list of entities to which the security freeze does not apply. We understand the Attorney General does not oppose this amendment and has approved the wording we suggest.

Security freeze measures are intended to help consumers fight the serious crime of identity theft. Legislation in this area needs to strike the balance between protecting against identity theft, victims' rights, and the valid need of a business to link a person's identity to their records.

As stated in the notice of rights provision of this bill "[t]he security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent." However, some businesses, including insurers, request credit information for reasons that have nothing to do with opening a line of credit or providing a loan. This security freeze measure's purpose of consumer protection is not furthered by freezing information from use by

insurers, since identity thieves are not known for using another's identity to purchase a property casualty insurance policy.

Many insurers use credit information for rate setting, underwriting and also for other reasons including claims investigations. If insurers are able to obtain credit information, the insurance customer can receive the best rate available based on accurate information, will not have to experience delays, and will not have to pay any applicable fees for "lifting" a freeze so that the insurer can obtain an insurance score.

Allowing insurers to continue to access credit information also helps to prevent insurance fraud. Sometimes insurers find it necessary to review credit histories where claims fraud is suspected.

In North Dakota, as in many states, a freeze could put insurers at odds with the credit information insurance laws because insurers are required to re-check credit at least once every three years, and as often as once per year if requested to do so by the policyholder. If the file is "frozen," the insurer could not obtain the information unless the consumer takes necessary steps to lift the freeze.

Also, without access to frozen files, it may be very difficult for consumers to shop for insurance through independent agents. An independent agent may shop for the best rate for a consumer from a number of carriers and the consumer may

not even know in advance which companies will review the consumer's information. It would be difficult, if not impossible, for the consumer to lift the freeze in advance for each of these companies, if the companies being shopped by the independent agent are not known by the consumer.

When a consumer requests that a freeze be put on his or her file, a credit bureau may not then give credit information to anybody without the consumer's express permission, subject to some exceptions. Most of the states that have passed a security freeze bill have exempted out insurance companies for underwriting, rating, or claims handling (e.g. South Dakota, Colorado, Kansas). It is appropriate to exempt out insurance companies as provided in the proposed amendment because, when a consumer applies for insurance with a company, the consumer is put on notice by the company that the company will access their credit and consumer report information. Without this exemption, that individual's application would be unnecessarily slowed for a product that they are seeking.

With the addition of the proposed amendment, we urge a Do Pass on HB 1417.

PROPOSED AMENDMENT TO HOUSE BILL 1417

Page 5, after line 12, insert:

- "9. Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes. This exemption does not determine or affect whether or not these uses are permitted under other law."

2

SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
SENATOR JERRY KLEIN, CHAIRMAN  
MARCH 12, 2007

TESTIMONY BY  
PARRELL D. GROSSMAN  
DIRECTOR, CONSUMER PROTECTION AND ANTITRUST DIVISION  
OFFICE OF ATTORNEY GENERAL  
IN SUPPORT OF  
ENGROSSED HOUSE BILL NO. 1417

Mr. Chairman and members of the Senate Industry, Business, and Labor Committee. I am Parrell Grossman, Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on the Attorney General's behalf in support of Engrossed House Bill 1417.

This legislation permits consumers to place a security freeze on access to their credit reports. With this security freeze in place, others are unable to steal consumers' identities in a manner that permits the identity thief to open unauthorized credit card, bank account, or other accounts.

28 states now have security freeze laws, with North Dakota and other states pursuing a security freeze law at this time. The North Dakota legislation is very similar to enacted Minnesota legislation and pending Montana legislation.

This security freeze legislation is watershed legislation in terms of identity theft. It is, without question, the most important consumer protection legislation this session in terms of significance, protection and benefit to North Dakota consumers. Most of the consumer protection laws make deceptive acts illegal and provide for penalties and restitution after the losses have been incurred. This legislation will prevent the illegal activity upfront. It protects the victim from actual financial losses or simply the nightmare of rehabilitating their credit identities built over a lifetime of responsible financial practices. It protects financial entities, telephone and utility companies, and other businesses from millions of dollars of financial losses. With enactment of this legislation these entities will no longer have to pass on the increased costs of such financial losses to consumers. The only losers are the highly organized identity theft rings and other identity thieves who suddenly are unable to open fraudulent credit card accounts, bank accounts, cell phone accounts, and so forth.

North Dakota consumers are very vulnerable to identity theft. The consequences of identity theft are horrendous for consumers and businesses. Therefore, the Attorney General has made identity theft prevention an important priority for his Consumer Protection Division. He has created an Identity Theft Clearinghouse to prevent identity theft and to assist identity theft victims. The Consumer Protection Division processes ID theft complaints, coordinates with local law enforcement, and assists victims in the lengthy, time-consuming, and frustrating process of resolving the problems.

#1  
1417

The Attorney General and his staff provide at least 50 identity theft education presentations each year and the interest is increasing. An ounce of prevention truly is worth a pound of cure.

The Attorney General is concerned that our local law enforcement agencies already are overwhelmed with physical injury crimes, sex crimes, drug crimes, and other property crimes. It is unfortunate that law enforcement must now use limited, precious resources investigating identity theft, unauthorized financial accounts and transactions, etc. He welcomes legislation that will stop any of this illegal activity "dead in its tracks."

The Federal Trade Commission Identity Theft Data Clearinghouse tracks ID theft complaints reported to that agency. In my experience with ID theft victims, only a small number of those victims actually report the ID theft to the FTC. North Dakota victims primarily file their complaints with local law enforcement or the Attorney General, the agencies that will be most responsive to their needs.

One source reported the FTC estimates there were only 158 ID theft victims in North Dakota. This number grossly under reports the actual number of North Dakota ID theft victims. For instance I have been the victim of ID theft and have never reported it to the FTC. In fact, my own personal and confidential information has recently been compromised in several instances. In September, 2006 I learned that someone opened an unauthorized credit card in my name pursuant to a fraudulent application via the Internet. At the same time I received several other identical complaints from consumers involving the same credit card company. As a result the Consumer Protection Division initiated an investigation. The company initially was reluctant to conclude there was a problem. I requested the company run a computer query on its Internet applications for North Dakota credit cards issued during an approximate one month period. The company reviewed its records and, as a result of contacting North Dakota credit cardholders, discovered approximately four hundred to five hundred fraudulent credit card accounts opened during this particular time period. The credit card company referred the matter to federal law enforcement and I understand the investigation is continuing. The fraudsters used correct social security numbers and other correct key personal or confidential information mixed with incorrect information such as employers, mothers' maiden names, incomes, etc.

North Dakota consumers are now subject to the "security breach" of the month. You are aware that last year the personal and confidential information of millions of veterans nationwide, including North Dakota veterans, was compromised due to a security breach. As if our veterans don't have enough concerns, they now need to worry about identity theft. The affected North Dakota veterans all received letters suggesting possible actions to prevent or contain any ID theft or other consequences including placing a fraud alerts on their credit files with the major credit reporting agencies. The letters also suggested the affected veterans could request a security freeze, but didn't explain that North Dakota law did not provide for placement of a security freeze as permitted under other states' laws.

Sometime in 2006 LexisNexis suffered a security breach. The number of affected North Dakota consumers was approximately 3,800. Compared to the population of other states, the number of affected North Dakota consumers was among the highest in the country. We just learned that TJX Company, who owns T.J. Maxx stores, suffered a breach involving credit card numbers, debit card numbers, and driver's license information. These are not the only security breaches that have occurred. My staff and I are spending substantially more time on security breaches because it is a significant problem and issue for consumers. While we can't seem to lock down consumers' confidential and financial information, this legislation provides the ability to lock down unauthorized access to credit in an ID theft victim's name.

You are all aware of the very serious consequences of identity theft to victims. You certainly understand the "parade of horrors" involving the loss of employment opportunities, the sudden inability to obtain a mortgage to purchase a dream home, or the humiliation of having your check or credit card declined in a checkout line with a cart full of holiday presents for your kids. North Dakota victims have experienced all of these consequences, including the holiday shopping incident I referenced. These ID theft victims often spend hundreds of hours trying to correct the problems, rehabilitate their damaged creditworthiness, and get their lives back in order.

The Attorney General believes this security freeze legislation will be a very important tool in protecting consumers from identity theft, credit card fraud, etc. The Attorney General recognizes a security freeze won't be the cure-all for identity theft, credit account, or other account fraud. However, this legislation does provide consumers the ability to have more control over access to their credit reports or files and to substantially reduce the risk of ID theft or unauthorized loans, credit cards, utility, and cell phone accounts, etc. Financial entities, stores, etc. are not likely going to issue new loans, credit card accounts, or charge card accounts to ID thieves who are not able to authorize access to the victim's credit file. Regardless whether these ID thieves already have Social Security Numbers, birth dates, or other personal or confidential information, the information will be almost useless for the extension of credit, without the potential victim's unique PIN (personal identification number) granting access to the credit report.

The gravity and extent of the problem are intertwined with the potential solution. The Attorney General believes security freeze legislation must be effective, easy to use, affordable, and have enforcement mechanisms. The credit reporting agencies must be able to reasonably implement this legislation. The Attorney General believes this legislation meets all the requirements.

The major credit reporting agencies certainly have a significant stake in the implementation of security freeze legislation. The credit reporting agencies are represented by the Consumer Data Industry Association (CDIA). This legislation has generated significant discussion between the Attorney General, on behalf of the sponsors, and the credit reporting agencies. The Attorney General has appreciated the opportunity to discuss the CDIA's concerns. The Attorney General and the CDIA, however, ultimately could not reach consensus the proposed amendments.

Therefore the Attorney General would like to address some of the potential proposed amendments that may be raised.

This legislation is substantially patterned after the Minnesota security freeze law passed in 2006. Minnesota law has often been a touchstone for North Dakota law because of our adjoining borders and Minnesota law often is legal precedence for North Dakota court decisions.

Minnesota law permits placement of the security freeze by certified mail, telephone, or secure electronic mail, if made available by the credit reporting agency. House Bill 1417 provides the same placement methods, except it permits the placement by regular mail and does not require certified mail. The requirement for placement by certified mail is unnecessary and inconvenient. Certified mail requires going to a Post Office, standing in line, and additional postage of approximately \$2.40 per letter. It is not a security feature. The Post Office does not require identification to send a certified letter and does not require certified letters be sent only from a Post Office in proximity to the consumer's home address. Anyone can send a certified letter, from any Post Office. Many consumers might not be deterred by a trip to the Post Office. However, it might not be as convenient or affordable for an elderly consumer who would like the protection of a security freeze.

Another asserted reason for requiring placement by certified mail is that some person, such as an ex-spouse, might maliciously place a security freeze. While anecdotal evidence is possible, Minnesota state officials have informed me they are not aware of any such abuse by spouses in Minnesota, or any reports of similar abuses in other states. Certainly ex-spouses, if so inclined, could contrive much more harmful conduct than placement of a false security freeze.

The CDIA has objected to placement by telephone. Minnesota law already requires placement by telephone. Presumably the credit reporting agencies are complying with Minnesota law and would be able to do so in North Dakota. The CDIA asserts that a paper trail of the placement by telephone is not possible. We must disagree. The credit reporting agency is entitled to request "proper identification" which is information sufficient to verify identity. Presumably it will be the same information it will ask for by regular mail or secure electronic mail. It would seem the credit reporting agency could capture all the proper identification on a computer screen or in some other format that would create a "paper trail." The quality or quantity of information submitted in writing should not vary significantly from information provided via the telephone.

As to placement by electronic means there already are 3 states that permit such placement. This legislation permits such placement when it is made available by the credit reporting agency. Minnesota law allows for future placement in the same manner.

Pending Montana security freeze legislation permits placement by regular mail, and allows placement by secure electronic connection effective January 31, 2009.



The Attorney General recognizes there is a limited possibility for unauthorized placement of security freezes. However, there is no monetary incentive for an imposter to place a freeze because the freeze restricts access to the credit file.

The sponsors and the Attorney General ensured the legislation provide heightened protection for ID theft victims. These victims have already suffered adverse consequences and should have the freeze more quickly placed. The credit reporting agencies have expressed concerns about the requirement to place a security freeze for ID theft victims within 24 hours. The Attorney General has requested numerous times any information indicating a 24 hour placement is not possible. He has never been advised that placement in 24 hours is not possible. The credit reporting agencies have indicated that 3 days for placement of the freeze is preferable to avoid any errors. The pending Montana legislation has this same 24 hour requirement for ID theft victims.

The legislation permits a credit reporting agency to remove a security freeze placed due to a material misrepresentation. The credit reporting agency must notify the consumer of intent to remove the freeze in writing three business days prior to the freeze. This requirement has generated a concern that the credit reporting agency is required to notify the consumer exactly 3 days prior to the removal. The intent of that requirement is to provide at least 3 days notice, not notice exactly 3 days prior to removal. The credit reporting agency may notify the consumer 3 days, 10 days, 30 days, etc. prior to removing the freeze. Inserting the words "at least" on page 3, line 5, after "writing" would address any concerns, but this statement of legislative intent also could address those concerns.

The CDIA has raised the issue of fees for placement, thawing, and removal of the freeze. The sponsors of this legislation and the Attorney General were concerned that the security freeze be affordable to consumers. The fees do vary in the many states' laws, from \$0 to \$20. In this legislation it is \$5 to place and thaw the freeze, with no charge to remove the freeze. Credit reporting agencies generate fees for the sale of credit reports. The removal of the freeze would facilitate the sale of credit reports. No fees to remove the freeze might actually encourage some consumers to remove the freeze.

Finally, the CDIA has proposed significantly altering consumers' ability to bring a private enforcement action. The Attorney General believes consumers must have the ability to bring a private cause of action if the credit reporting agencies release the consumer's credit file in violation of this law. The legislation provides for written notification to the consumer if this occurs. This notification would provide the consumer the opportunity to take steps to protect themselves if the information was erroneously released to an individual or entity that should not have such access. The Attorney General has limited resources and may not always be able to address every violation. In this event, consumers should be able to seek a remedy for a violation, if appropriate. Those private remedies are always subject to a court's determination or approval.

The Attorney General respectfully asks the Senate Industry, Business and Labor Committee give Engrossed House Bill 1417, a "Do Pass" recommendation, without further amendments.

Thank you for your time and consideration. I would be pleased to try and answer any questions.

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#1  
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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1417  
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
JERRY KLEIN, CHAIRMAN  
MARCH 19, 2007

PRESENTED BY  
PARRELL D. GROSSMAN, DIRECTOR  
CONSUMER PROTECTION & ANTITRUST DIVISION  
OFFICE OF ATTORNEY GENERAL

Page 2, line 23, replace "twenty-four" with "forty-eight"

Page 2, line 23, replace "notice under section 51-33-02" with a colon and immediately thereafter insert:

- a. A notice under section 51-33-02; and
- b. A copy of a valid police report, investigative report, or complaint to law enforcement evidencing the identity theft victim has alleged being a victim of identity theft. The copy may be transmitted to the consumer reporting agency by mail, facsimile, or secure electronic mail connection, if the connection is made available by the consumer reporting agency.

2. Effective August 1, 2009, if a victim of identity theft requests a security freeze, a consumer reporting agency shall place a security freeze on the consumer's credit report no later than twenty-four hours after receiving:

- a. A notice under section 51-33-02; and
- b. A copy of a valid police report, investigative report, or complaint to law enforcement evidencing the identity theft victim has alleged being a victim of identity theft. The copy may be transmitted to the consumer reporting agency by mail, facsimile, or secure electronic mail connection, if the connection is made available by the consumer reporting agency.

Page 2, line 24, replace "2" with "3"

Page 2, line 29, replace "3" with "4"

Page 3, line 28, replace "subdivision" with "section"

Page 3, line 29, after "writing" insert "at least"

Page 8, line 13, after "agency" insert "erroneously releases a consumer's credit file, or any information derived from it, the consumer reporting agency shall send written notification to the affected consumer within five business days following discovery or notification of such erroneous release."

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1417

Page 8, line 14, remove "violates the security freeze by releasing credit"

Page 8, remove line 15

Renumber accordingly

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**Senate Industry, Business, and Labor Committee**  
**HB 1417**  
**March 12, 2007**

Chairman Klein and members of the committee, my name is Linda Johnson Wurtz, Associate State Director for Advocacy for AARP North Dakota. I am here today on behalf of 80,500 North Dakota members.

AARP supports HB 1417 for the following reasons:

The older population is so often targeted by identity thieves. In addition, older victims report more of the various types of fraud that result from a stolen identity, including new credit cards, loans, telephone service and other utilities, checking accounts, internet accounts, insurance, housing rental, etc.

Most types of new account fraud are preventable with the ability to freeze credit information. In order for an identity thief to get credit or open a new account, the entity being asked for services must check the consumer's credit file. With a security freeze...your information is locked away until you want to use it.

HB 1417 makes a security freeze available to anyone, a proactive approach to preventing the adverse impact of identity theft.

The fees proposed are reasonable, so that security freeze is affordable and keeps a security freeze accessible to everyone.

#2  
1417

Providing a free and accelerated security freeze to the victims of identity theft is just and compassionate.

Having a goal of processing a lift of the security freeze within 15 minutes will be good for people and the businesses they patronize.

The process as proposed in this bill is consumer friendly. Although it has been suggested that certified mail would be the best way to communicate regarding a security freeze, it adds expense and inconvenience. Having the ease of communicating by telephone, fax, email, or a secure on-line connection again makes the security freeze a more user friendly tool. I have attached an analysis by Consumers Union which goes into that issue in more detail and discusses some of the misperceptions regarding security and certified mail. (Attachment)

The notification requirements in HB 1417 are fair and timely. This law will be an instrument to help consumers be proactive in protecting themselves. Notification when changes are made to personal information, when a security freeze is removed, and when a violation of a security freeze occurs...these are the strengths in this bill for people and should remain intact.

Enforcements in HB 1417 are appropriate and are what will make this law meaningful when it is enacted.

A national survey sponsored by the Federal Trade Commission (FTC) estimates that approximately 10 million Americans were victimized by identity theft in the year prior to the study. The study estimates that the financial cost to businesses during this period reached almost \$50 billion. State surveys by AARP show that our members across the nation share a concern about being victims of identity theft (75% to 90%). The legislation before you will be a significant step in helping North Dakotans to protect themselves.

#2  
1417

Twenty-six states and the District of Columbia have passed security freeze legislation. The protections in HB 1417 are being provided now to the people who live in those states. North Dakotans deserve to have those same protections.

AARP North Dakota urges you to recommend passage of HB 1417.

Thank you.

#2  
1417

## **The Security Freeze – Why Requiring The Use Of Certified Mail Is Unnecessary and Burdensome For Consumers**

The security freeze should be easy to use for consumers and should provide them with various methods to initiate this identity theft protection tool. Ease of use for a security freeze – such as allowing consumers to place and lift a freeze by regular mail, telephone, e-mail, secure electronic connection or by fax – will be good for both consumers and businesses. The easier the freeze is to place, the more likely consumers will use it to prevent new account identity theft, the most expensive type of ID theft for both consumers and businesses.

A requirement of certified mail to place the freeze was widely but unwisely copied from the initial California statute. A certified mail requirement imposes extra cost and inconvenience on consumers without a corresponding benefit. Certified mail requires going to a Post Office, usually standing in line for a clerk, and paying an additional fee of \$2.40 per letter. Younger consumers may have had no experience with using certified mail, and older consumers may not want to deal with the hassle of sending the request that way. Indeed, with 54% of people age 50 and above online – and older people being the fastest growing users of the internet – there is no reason not to provide easier methods for placing and lifting a freeze, including over the internet.

The best form of the security freeze borrows from the convenience of on-line banking, and enables the consumer to easily place and lift the freeze using a personal identification number (PIN), with the placement and lifting taking effect almost immediately. Indeed, New Jersey's security freeze law requires that credit reporting agencies (CRAs) provide at least one of the following methods to place and lift the freeze: by a secure on-line connection; by telephone; or by fax. Texas law specifies that consumers can request a lift, or "thaw" the freeze, by telephone.

Making the process to use security freeze easier by providing for its electronic or telephone placement and removal will promote security freeze use and thus assist in the prevention of identity theft. And given that the CRAs already allow consumers to download credit reports online, or get them by regular mail, there's no reason they shouldn't allow them to place security freezes in that manner as well – if these methods are secure enough to get a credit report, then surely they are acceptable ways to place a freeze. Indeed, consumers may also request their free annual credit reports from all three major CRAs through a single, centralized website, by toll free number, or by regular mail.

While CRAs have characterized certified mail as a security feature, the facts don't bear this out. There is no monetary incentive for an imposter to place a freeze, because the freeze narrows access to the credit file. The asserted reason for requiring certified mail is that someone such as an ex-spouse might maliciously place a freeze. We have seen no evidence that ex-spouses are in fact attempting to misuse the freeze in those states that already have it. If this were to occur, however, the consumer could correct it promptly, when the notice and PIN were sent to the real consumer right after the freeze was placed.

A certified mail requirement doesn't add security, because the Post Office does not require a showing of identification to send a certified letter, and does not require that such letters be sent only from a Post Office in proximity to the consumer's home address. A certified letter can be sent by anyone, from any Post Office. Instead of making all consumers who wish to initiate a security freeze use only certified mail, a better approach would be to permit placement by regular mail and by secure electronic means, and then provide a criminal penalty, damages, or both for the malicious placement of a security freeze on the credit file of another person.

#2  
1417



washingtonpost.com

## Better to Stop Data Thieves Cold

By Michelle Singletary  
Thursday, February 15, 2007; D02

Here we go again.

The Department of Veterans Affairs has disclosed that information on more than half a million individuals and about 1.3 million non-VA physicians -- both living and deceased -- is missing and may have been stolen. The information had been stored on a portable hard drive that was being used by a VA employee at the department in Birmingham, Ala.

The VA said it would notify people whose sensitive information may have been on the hard drive and will make arrangements to provide one year of free credit monitoring to those whose information proves "compromised."

In another information snafu, a vendor working for Piper Jaffray accidentally sent current and former employees their W-2 forms with Social Security numbers printed on the outside of the envelopes. The investment and securities firm also said it will offer a year of free credit monitoring to those affected.

In information-breach cases, offering potential victims free credit monitoring is the least the company or government agency can do.

And I really do mean it's the least it can do because having a credit-monitoring service wouldn't make me feel too secure.

For about a year, my husband and I paid \$99 for credit monitoring. During that time, we were sent monthly reports about any activity posted in our credit files with Experian, Equifax and TransUnion.

Just as fast-food restaurants have proliferated, there are numerous credit-monitoring services. All three credit bureaus offer these services, and they're pretty much the same. Typically, consumers are notified if anything unusual or suspicious appears on any of their credit reports, such as an address change, which can be an indication that someone is trying to divert bills from a fraudulently opened credit or loan account.

For a while, having a credit-monitoring service did make me feel safe from identity theft, which involves stealing personal data to apply for credit. I figured that if someone tried to open up credit in my or my husband's name, we would know about it. Often victims of identity theft don't find out about the fraud until bill collectors start calling about missed payments -- sometimes months after the fraudulent accounts were opened.

Eventually we canceled the monitoring service. Although we were never notified of any problems, we realized that if there ever were fraudulent accounts, we wouldn't know about them until after they were opened. By that time the damage would already be done. We could only react.

A lot of the advertising for credit monitoring says it can help stop identity fraud. That claim is misleading. Credit monitoring is a detection system. And that's the major downside. Yes, it helps to know early if you're a victim of identity theft, but it would be better to prevent it altogether.

Advertisement

To reduce our dependence on oil,  
BP is working with DuPont to develop  
an advanced generation of biofuels.

It's a start.



Discover more.



The cost of credit monitoring varies depending on the plan you choose. Prices range from about \$5 a month to \$15 a month. If you get the service, make sure all three of your credit files are being monitored.

However, a much better way to deter thieves from grabbing your good credit name is a "security freeze," which blocks access to your credit reports and credit scores. That means the credit bureaus can't release your credit reports, scores or any other information from your files without your authorization. With no credit report, most lenders aren't going to approve a new credit application.

I'd rather pay to put a security freeze on my credit files than pay for monitoring services. A security freeze typically costs \$10 per credit file in the District and the 26 states that have passed laws allowing it. Seventeen more states are considering security-freeze laws this year. Since you should place a freeze on all three of your major credit files, that amounts to \$30 -- or \$60 to freeze all six files if you're married.

The freeze stays in place until you request it be lifted. You can lift it temporarily when you need a lender to view your files. Or you can lift it for a specific creditor. (And by the way, you can still get your own credit file if it's frozen.) In most cases, you'll have to pay a fee to temporarily lift the freeze, generally another \$10.

The Federal Trade Commission has a Web site on identity theft with a slogan that says "Deter, Detect and Defend." (To find the site, go to <http://www.ftc.gov> and look for the link to "Avoid ID Theft.") If you're in the market for credit quite a bit, the cost of getting a security freeze lifted can add up. On the other hand, knowing that a criminal will have great difficulty opening credit in your name is a priceless defense.

· *On the air: Michelle Singletary discusses personal finance Tuesdays on NPR's "Day to Day" program and online at <http://www.npr.org>.*

· *By mail: Readers can write to her at The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.*

· *By e-mail: [singletarym@washpost.com](mailto:singletarym@washpost.com).*

*Comments and questions are welcome, but because of the volume of mail, personal responses are not always possible. Please note that comments or questions may be used in a future column, with the writer's name, unless a specific request to do otherwise is indicated.*

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Testimony of Bill Shalhoob  
Consumer Data Industry Association  
HB 1417  
March 12, 2007

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I am representing the Consumer Data Industry Association. CDIA is an international trade association representing the consumer credit, mortgage reporting, collection service, resident screening and employment reporting industries. Involved in government affairs, public relations and education, members provide one billion credit reports annually to retailers, banks and other lenders.

CDIA does not oppose security freeze legislation represented by HB 1417 and we appreciate the amount of work that has been done by the Attorney General and his staff in drafting this legislation and getting it to this point. Legislation dealing with security freezes currently exists in 28 states so there is a good deal of history and commonality we can refer to. We do have a number of concerns with HB 1417 and we will address them through seven proposed amendments which are attached to my testimony. They are not intended to weaken the bill, but to bring it into line with other states and reasonable business practices as they exist with current need, practice and technology.

The first amendment is to delete the telephone request for a credit freeze by striking lines 13 and 14 on page 2. This change is consistent with 23 of the 24 laws now in effect. Equifax, Experian and TransUnion estimate one-third of all consumer requests for dispute resolution are related to fraudulent activity. No trail of any kind is possible with a request for a freeze made by phone. The fraud prevention trail diminishes as regular mail and email are used so the only truly verifiable source is certified mail. We understand it is not realistic to impose this requirement but want the committee to understand the telephone call is just as difficult for CDIA to accept on the other end of the spectrum. A written trail is essential when dealing with dispute resolution and the penalty phases of this bill.

The second amendment deals with the ability to request a freeze through a secure electronic mail connection. This technology is currently being developed but is not available today. Two of the three states that allow electronic means to request a freeze have a delayed effective date of not before September 1, 2008. Our preference would be delete lines 15 and 16 completely and deal with it during the next legislative session. Absent that an effective date of January 1, 2009 would more properly reflect the current estimate for software development and implementation.

#3  
1417

The third amendment changes the timeline for a freeze to be placed by changing it from 24 hours to three business days. There is no law among the 28 freeze laws, which cover 65% of all American adults, which allows for a freeze in less than three business days. This bill would require consumer reporting agencies build a nationwide system for what the FTC estimates is 158 identity theft victims in North Dakota (50<sup>th</sup> in the nation for identity theft). Consumers can protect themselves by use of fraud alerts, opting out of pre-approved credit card offers or have stops placed on checks. A placement of a freeze takes more time. Please remember our statistic from the introduction. Our members handle over a billion transactions a year. The volume alone should lend credence to our assertion that we will not be able to comply with a 24 hour requirement.

The fourth amendment is to strike the language on page 3, line 21 after "manner" dealing with goal of processing a request. It is not an industry goal to set a time for completing any individual transaction. We work towards completing each request as quickly and efficiently as possible recognizing that we can not sacrifice security and accuracy for the sake of speed. We are mindful of the service needs and also consider the liability if we do not do our job correctly. I also wonder if code is a proper place for this kind of service requirement. This is a little like telling the retailer in code how long a customer may stand in line before checking out. We have better uses of for our statutes than going to this kind of language.

The fifth change strikes the language "three business days" from page 3, lines 29 and 30. Like all other freeze laws, the bill allows a consumer reporting agency to remove a security freeze from a file when the consumer credit file was frozen due to a material misrepresentation of fact by the consumer. Unlike most if not all other freeze laws, HB 1417 would require consumer reporting agencies to notify consumers within three business days of removal. This is an unfair and often unworkable solution. The requirement should follow written notice to be given prior to removal, whether that notice is three, ten or thirty business days. The important point is the notice comes prior to removal, not when it is given. Businesses and the safe and sound credit reporting system are harmed by the three business day mandate. Most likely, consumer reporting agencies will not wish to create a special expedited notice system in North Dakota and no files will be unfrozen even though the consumer is committing a fraud.

The sixth area of change is in section 51-33-08 on pages 5, 6 and 7. We are asking that the fees be raised from five to ten dollars and that they apply to removals as well as freezes. The fee to place a freeze can be as low as zero (New Jersey) and to temporarily lift a freeze as high as \$20 (Nevada). The plurality fee and the middle ground is \$10 to place a freeze, \$10 to temporarily lift a freeze, \$10 to remove a freeze and all fees waived at all times for identity theft victims. This committee heard a bill earlier in the session asking for fees for bad checks to be raised above \$25 per check. Five dollars does not begin to cover the administrative cost of these special transactions and are a small price to pay when dealing with concerns about financial security.

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1417

Finally, we are proposing new language for section 51-33-13 which deals with private enforcement. Current language requires a consumer reporting agency that erroneously releases a consumer credit report that has been frozen send written notification to the affected consumer within five business days following discovery or notification of the erroneous release. No other of the 28 state file freezes has such a provision. Requiring consumer reporting agencies to develop a system of notification for erroneous release for just one state is not reasonable. And the strict liability to the affected consumer is burdensome and may actually be counterproductive, resulting in less service, not more. If the law becomes effective without changes consumer reporting agencies will have to exercise extraordinary caution in releasing a consumer's credit report to the party to whom the consumer has requested that it be released. This could result in poorer service and therefore missed business opportunities. The amended language allows relief and is consistent with language in the Federal Reporting Act.

Mr. Chairman and members of the committee, thank you for allowing me to appear before you today. We support the concept of a credit freeze bill and would support HB 1417 if it would be amended to reflect current law in other states and realistic ability of business to provide these needed services to consumers and businesses. I would be happy to answer any questions.

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HB 1417 Amendments

Page 2, strike lines 13 and 14.

Page 2, strike lines 15 and 16 or after "agency." Add " The effective date for electronic mail freeze shall be January 1, 2009."

Page 2, strike lines 21, 22, and 23. Normal business practice is for notification in three business days.

Page 3, lines 21 and 22, strike all after "manner."

Page 3, line 29 and 30, strike "three business days"

Page 5, line 21, page 6, line 1 and page 7, line 27 strike "five" and add "ten"

Page 5, line 22, strike "or" and add "or removing" after "lifting"

Page 8, strike lines 13 through 24 and add

"1. If a consumer reporting agency violates the security freeze by releasing credit information that has been placed under a security freeze, the affected consumer is entitled to notification within five business days of the release of the information, including specificity as to the information released and the third party recipient of the information. In addition, the affected consumer in a civil action against the consumer reporting agency may recover;

- (a) Injunctive relief to prevent or restrain further violation of the security freeze;
- (b) The greater of actual damages or two thousand dollars in civil damages for each violation; and
- (c) Reasonable expenses, court costs, investigative costs, and attorney's fees.

2. Each violation of the security freeze shall be counted as a separate incident for purposes of imposing penalties under this section."

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1417