

2009 HOUSE JUDICIARY

HB 1308

# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/27/09

Recorder Job Number: 7931, 7932

Committee Clerk Signature



Minutes:

**Vice Chairman Klemin:** We will open the hearing on HB 1308.

**Rep. Kim Koppelman:** Sponsor, support, explained the bill.

**Chairman DeKrey:** If you can have the security freeze removed in 15 minutes, what keeps the criminal from doing the same thing.

**Rep. Koppelman:** Only you can initiate and remove the freeze.

**Rep. Delmore:** If it takes 19 minutes instead of 15, what is the penalty?

**Rep. Koppelman:** Don't know.

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

**Attorney General:** Support (attachment). Essentially consumers that place a security freeze on their account, a password or ID are issued to the consumer that will allow them to lift this freeze anytime they want to. You used to have to wait up to 3 days for the credit reporting agency to lift that freeze.

**Rep. Boehning:** Since there are three credit reporting agencies, would the security freeze go out to all three at the same time, or would it just go to one.

**Parrell Grossman:** Unfortunately you have to place those separately with each credit reporting agency. The whole process should take less than 30 minutes to do the paperwork for all three agencies.

**Rep. Boehning:** To obtain the thaw, do you have to contact all three again to lift the security freeze.

**Parrell Grossman:** I do not believe so; my understanding in response to at least my inquiry is that most entities that extend credit will only utilize one credit reporting agency or at least ask that you release it with one credit reporting agency. I was told by one particular entity, that they use all three and I would have to lift it with all three. Frankly, I'm not convinced after I contacted corporate headquarters, that what the store clerk told me was correct. My understanding is that they will only contact the credit reporting agency that provides credit reporting services to that business.

**Rep. Klemin:** Walk me through this procedure. If I wanted to go into a car dealer and buy a car, and I have one of these security freezes on, and I wanted to get credit through whoever they do their financing through, whether it's a local bank or GMAC, etc. What do I have to do? Do I have to get on the phone and call one of these places, and tell them that I want them to lift the security freeze. Here's my password.

**Parrell Grossman:** That is exactly what you would do. Most likely the business manager processing the loan application at that automobile dealer would hand you the phone, you would get a representative from the credit reporting agency and you would need to provide them with some information to release the credit freeze temporarily so that they can have access. In my own experience, that has been a rather simple process. In most instances, you provide your password number and they say that will be released with 24 hours, or 2 days, whatever.

**Rep. Klemin:** Of course, when I'm buying a car, I don't intend to release that security freeze forever or for everything, does it go back on again, or do I have to do this all over again.

**Parrell Grossman:** You can temporarily thaw or lift the security freeze for a specific creditor, you can lift it for a period for all creditors, and you can lift it for a specific time. They are quite flexible in that regard. You specify the terms under which you want the security freeze lifted. You tell them how long you want it lifted for what creditor and time period.

**Rep. Klemin:** I did do this. I had security freezes put on all three of these credit reporting companies, and I don't remember if they all sent me a password or not. I found that the free credit report that you can get on line, I'm not able to get that online anymore because I have security freezes. So when I go online to try and do that, you can do it like every four months, so once a year with each credit reporting bureau. So now I have to send in my request in writing, along with a utility bill, a copy of my driver's license and fill out their application form in order to get a credit report that I used to be able to get on line right away. Is that the way we thought it was going to work.

**Parrell Grossman:** I think that's a trick question. I don't think the AG anticipated that was how it was going to work. The only reason I learned of that myself recently and I need to explore further. I don't know if the law prohibits them from doing that; but I don't think that was the intent, I think at a minimum, the consumer should be able to provide his or her pin number and get that accessed online. I need to explore that. At a minimum, you shouldn't have to provide all of that documentation. I am finding that there are occasionally some circumstances that arise that create problems.

**Rep. Klemin:** I just got a notice from Experian that said something in my credit report had changed; but that if I wanted to get more information, I could either provide the documentation, make a request to get a copy for \$10.50, or go online and get that information or call on the

telephone. When I go online, it won't give me that information. When I go on the telephone, it says you either have to go online or send in the written information, so I've had to send in a written application for my credit report now, along with a utility bill, a copy of my driver's license and \$10.50 to find out what it is that they are talking about, because I don't know and I don't have a response back yet. They would have provided me with a response if I had paid an additional \$20 for express mail.

**Parrell Grossman:** It is extremely difficult to deal with credit reporting agencies. The burden shifts to consumers to get answers from the credit agency. If you want to get answers, you have to pay for them. Many consumers have experienced that situation every time there is a change to their credit report or their credit file, they get an ambiguous letter that doesn't explain anything and then you have to provide the information and payment to get any information.

**Rep. Delmore:** Is there some section in the Code that can be changed to address that. That's not what we intended to have happen to people. It sounds like it happens more often than people know.

**Parrell Grossman:** My guess is that it would not be possible to change that, it is difficult to regulate these companies under federal law. If they had their way, they probably wouldn't be able to place the security freeze, but it's one of the things that federal law permits.

**Rep. Koppelman:** Is your credit score affected by the security freeze.

**Parrell Grossman:** I believe they are not affected; insurance company's inquiries, bank loans, monitor your account, etc. are excluded from the freeze.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Linda Johnson Wurtz, Associate State Director for Advocacy, AARP:** Support (attachment).

**Chairman DeKrey:** Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to HB 1308.

**Rep. Koppelman:** I move the Attorney General's amendments.

**Rep. Hatlestad:** Second.

**Chairman DeKrey:** Voice vote. Motion carried. We now have the bill before us as amended.

**Rep. Delmore:** I move a Do Pass as amended.

**Rep. Griffin:** Second.

**12 YES 0 NO 1 ABSENT DO PASS AS AMENDED CARRIER: Rep. Hatlestad**

VR  
1/28/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308

Page 1, line 7, after "2." insert "a."

Page 1, line 10, after "request" insert "unless one of the following circumstances applies:

- (1) The consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03; or
  - (2) The consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:
    - (a) A natural disaster or act of God, including fire, earthquake, or hurricane;
    - (b) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, or a labor strike or similar labor dispute disrupting operations;
    - (c) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, or computer hardware or software failures inhibiting response time;
    - (d) Governmental action, including emergency orders or regulations or judicial or law enforcement action;
    - (e) Receipt of a removal request outside of normal business hours; or
    - (f) Maintenance of, updates to, or repair of the consumer reporting agency's systems, whether regularly scheduled, unscheduled, or unexpected.
- b. For the purposes of this section, "normal business hours" means from six a.m. to nine-thirty p.m., central standard time or central daylight time, seven days a week, excluding holidays other than Sundays"

Renumber accordingly

Date: 1/27/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1308

**HOUSE JUDICIARY COMMITTEE**

☐ Check here for Conference Committee

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

Action Taken ☐ DP ☐ DNP ☒ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Rep. Delmore Seconded By Rep. Griffin

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig		
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser	✓	
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Hatlestad

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

**REPORT OF STANDING COMMITTEE**

**HB 1308:** Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1308 was placed on the Sixth order on the calendar.

Page 1, line 7, after "2." insert "a."

Page 1, line 10, after "request" insert "unless one of the following circumstances applies:

- (1) The consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03; or
- (2) The consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:
  - (a) A natural disaster or act of God, including fire, earthquake, or hurricane;
  - (b) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, or a labor strike or similar labor dispute disrupting operations;
  - (c) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, or computer hardware or software failures inhibiting response time;
  - (d) Governmental action, including emergency orders or regulations or judicial or law enforcement action;
  - (e) Receipt of a removal request outside of normal business hours; or
  - (f) Maintenance of, updates to, or repair of the consumer reporting agency's systems, whether regularly scheduled, unscheduled, or unexpected.
- b. For the purposes of this section, "normal business hours" means from six a.m. to nine-thirty p.m., central standard time or central daylight time, seven days a week, excluding holidays other than Sundays"

Renumber accordingly

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1308

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1308

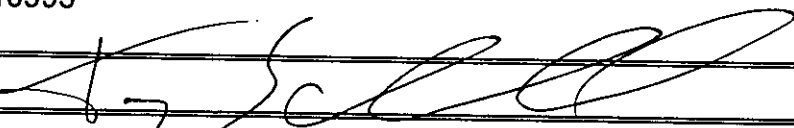
Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

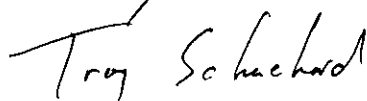
Hearing Date: March 16, 2009

Recorder Job Number: 10995

Committee Clerk Signature



Minutes:



**Chairman Klein:** Opened the hearing on HB 1308, all members present.

**Kim Koppelman:** Representative District 13 introduced and testified in support of HB 1308.

What this bill is attempting to do is help our citizens avoid the ill-effects of identity theft or to recover from the damage caused by the perpetrator. When someone recognizes that they have been a victim, there are two things citizens can do: 1) file a police report, and 2) freeze your credit report so more inaccurate damage cannot be added to your credit report.

**Parrell Grossman:** Director of Consumer Protection and Anti-Trust Division Office of the Attorney General testified in support of HB 1308. (See attachment #1a + b)

**Chairman Klein:** Can we tell if the law is working? Do we have any indication of what we have done in the past is helping?

**Parrell Grossman:** It is difficult at best and the consumers do seem pleased, however, I don't have any antidotal evidence that will say "now that this process is available it will prevent identity theft". This legislation makes sense to me because financial companies are not going to grant credit if they cannot look at your file.

**Chairman Klein:** As I recall, there are some fees. Can you explain those to us?

**Parrell Grossman:** \$5 fee to place the security freeze or to lift said security freeze, unless you have been a victim of identity theft.

**Linda Johnson-Wurtz:** Associate State Director for Advocacy for AAPR of North Dakota testified in support of HB 1308. (See attachment #2)

**Jack McDonald:** Representing the Independent Banks of North Dakota testified in support of HB 1308. I think it is important to recognize that this bill only for temporary lifting of the freeze.

**Chairman Klein:** Closed the hearing on HB 1308

**Chairman Klein:** Opened discussion on HB 1308

**Senator Andrist:** Motion to approve amendments proposed to HB 1308

**Senator Wanzek:** Seconded

**Chairman Klein:** Motion to approve amendments proposed to HB 1308 is granted 7-0

**Senator Wanzek:** Motion for a Do Pass as amended on HB 1308

**Senator Horne:** Seconded

**Chairman Klein:** Motion for a Do Pass on HB 1308 as amended is approved 7-0. **Senator Wanzek** to carry

March 17, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1308

Page 1, line 7, after "request" insert "by mail"

Page 1, line 9, after "~~three~~" insert "two", remove the overstrike over "~~business days~~", and remove "fifteen minutes"

Page 1, line 10, remove "one of the following circumstances applies:"

Page 1, line 11, replace "(1) The" with "the"

Page 1, line 13, replace "; or" with "."

- b. A consumer reporting agency that receives a request by telephone or through a secure electronic connection from a consumer to temporarily lift a freeze on a consumer credit file under this section shall comply with the request no later than fifteen minutes after receiving the request unless the consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03 or the

Page 1, line 14, remove "(2) The"

Page 1, line 16, replace "(a)" with "(1)"

Page 1, line 18, replace "(b)" with "(2)"

Page 1, line 21, replace "(c)" with "(3)"

Page 2, line 1, replace "(d)" with "(4)"

Page 2, line 3, replace "(e)" with "(5)"

Page 2, line 5, replace "(f)" with "(6)"

Page 2, line 8, replace "b." with "c."

Renumber accordingly

Roll Call Vote #: 1

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

Date: 3/17/09  
Roll Call Vote #: 2

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1308**

## Senate

## Committee

## Industry, Business and Labor

☐ Check here for Conference Committee

**Legislative Council Amendment Number**

### Action Taken

☒ **Pass**☐ **Do Not Pass**☐ **Amended**

Motion Made By Senator Wanzel Seconded By Senator Horne

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Wanzek

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

**REPORT OF STANDING COMMITTEE**

HB 1308, 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 1308 was placed on the Sixth order on the calendar.

Page 1, line 7, after "request" insert "by mail"

Page 1, line 9, after "~~three~~" insert "two", remove the overstrike over "~~business days~~", and remove "fifteen minutes"

Page 1, line 10, remove "one of the following circumstances applies:"

Page 1, line 11, replace "(1) The" with "the"

Page 1, line 13, replace "; or" with "."

- b. A consumer reporting agency that receives a request by telephone or through a secure electronic connection from a consumer to temporarily lift a freeze on a consumer credit file under this section shall comply with the request no later than fifteen minutes after receiving the request unless the consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03 or the

Page 1, line 14, remove "(2) The"

Page 1, line 16, replace "(a)" with "(1)"

Page 1, line 18, replace "(b)" with "(2)"

Page 1, line 21, replace "(c)" with "(3)"

Page 2, line 1, replace "(d)" with "(4)"

Page 2, line 3, replace "(e)" with "(5)"

Page 2, line 5, replace "(f)" with "(6)"

Page 2, line 8, replace "b." with "c."

Renumber accordingly

2009 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1308

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1308

House Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: 4/15/09

Recorder Job Number: 11888

Committee Clerk Signature



Minutes:

**Rep. Hatlestad:** The conference committee will come to order.

**Attendance:** 5 members present, Sen. Behm absent.

**Rep. Hatlestad:** Senate please explain their amendments.

**Sen. Wanzek:** These were amendments provided to us by the Attorney General's office. The current law says that they have three days to lift a security freeze. In the amendments by the House it changed the bill to have the credit reporting agency lift the freeze within 15 minutes. The credit reporting agency has indicated that they will not be able to process mail within 15 minutes to perform a temporary lift. Requests by telephone and secure electronic connections can be immediately processed in real time as they are received. Therefore, the temporary lift can be completed within the 15 minutes. The credit reporting agencies indicated that it is not possible to handle the requests by mail in this same manner as such requests will be combined with all incoming mail and reviewed accordingly without the ability to determine when the mail was received and respond within 15 minutes. The AG has agreed that requests for temporary lifts received by mail be completed within 2 business days. Therefore, the AG prepared amendments to provide for a 15 minute lift when the requests are received by phone or electronic connection and 2 business days when received by mail.

**Rep. Griffin:** I move that the House accede to the Senate amendments.

**Sen. Wanzek:** Second.

**Rep. Hatlestad:** Roll call vote.

**5 YES 0 NO 1 ABSENT**

**HOUSE ACCEDE TO SENATE AMENDMENTS**

**Rep. Hatlestad:** Motion carried. We are adjourned.

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

Bill Number 1308 (, as (re)engrossed):

Date: 4/15/09

Your Conference Committee House Judiciary

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen Wanzek	✓		Rep. Hatlestad	✓	
Klein	✓		Kingsbury	✓	
Behm	Absent		Griffin	✓	

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

the (Senate/House) amendments on (SJ/HJ) page(s) 1028 - \_\_\_\_\_

✓, and place 1308 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) 1308 was placed on the Seventh order of business on the calendar.

DATE: 4/15/09

CARRIER: Rep. Hatlestad

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

MOTION MADE BY: Rep. Griffin

SECONDED BY: Sen. Wanzek

VOTE COUNT 5 YES 0 NO 1 ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1308, as engrossed:** Your conference committee (Sens. Wanzek, Klein, Behm and Reps. Hatlestad, Kingsbury, Griffin) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1086 and place HB 1308 on the Seventh order.

Engrossed HB 1308 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1308

HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVE DUANE DEKREY, CHAIRMAN  
JANUARY 27, 2009

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

Mr. Chairman and members of the House Judiciary Committee. I am Parrell Grossman, Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on behalf of Attorney General Wayne Stenehjem in support of House Bill 1308 and to offer proposed amendments for your consideration.

Identity theft is a serious problem that requires constant vigilance, evolving tools, and rigorous enforcement efforts to combat. Therefore, in 2007 the legislature enacted North Dakota's security freeze law codified in N.D.C.C. ch. 51-33 which allows North Dakota residents to take additional steps to protect themselves from ID theft.

Financial institutions, credit card companies, cell phone companies, etc. will not grant credit to consumers without reviewing the consumers' credit files. The security freeze law allows consumers to place a security freeze on their credit reporting files with the credit reporting agencies, Equifax, Experian, and TransUnion. When a security freeze has been placed by the consumer, entities granting extensions of credit are prohibited access to a consumer's credit reporting file without the consumer's permission.

At the time the credit reporting agency places the freeze it provides the consumer a personal identification number or a password that will permit entities access to the consumer's credit file with the consumer's permission.

Consumers who apply for credit may request the credit reporting agencies to temporarily lift or "thaw" the security freeze to allow the entity to access the consumer's credit file in order to make a decision on the consumer's application for a loan or services, etc.

The current law allows the credit reporting agency up to three days to temporarily lift the security freeze upon the consumer's request. At the time North Dakota's security freeze law was enacted, all states with security freeze laws had similar provisions allowing three days for the temporary lift.

Due to the inconvenience to businesses and consumers and the delays incurred in transactions involving the extension of credit, one or two states initially required that the credit reporting agencies be able to temporarily lift the security freeze within fifteen minutes, starting in 2008. The Attorney General of North Dakota anticipated that the credit reporting agencies would soon have technologies and procedures in place and would be able to provide this service in all states. Therefore, he opted to wait and not suggest the North Dakota legislature mandate this requirement prior to this time.

There are now approximately 18 states that require a fifteen minute thaw as of 2008 or will so require during 2009. The Attorney General believes it is now time to require and implement a fifteen minute thaw in North Dakota.

Some consumers have expressed to the Attorney General a reluctance to place a security freeze until there is a procedure that provides a fifteen minute thaw, as currently provided in many other states. Some consumers simply want that request for credit to be immediately approved so that they can obtain a new credit card, purchase a new car or new furniture, or obtain cell phone services without any delay, and do not want to wait up to three days for their security freeze to be thawed.

The fifteen minute thaw will serve two important purposes. It now will allow more consumers to take advantage of the opportunity to place a security freeze to protect themselves from ID theft and it will eliminate the consumer transaction delays incurred with the current three days' temporary lift.

The Attorney General is proposing some amendments to this legislation to provide some exceptions to the fifteen minute thaw. The Attorney General does not want it to be a violation of the law if the credit reporting agency is unable to provide the temporary lift within fifteen minutes due to technical difficulties such as equipment failure, etc. Therefore, he has provided a list of exceptions that are common to other states requiring a fifteen minute temporary lift. These exceptions were inadvertently omitted in the original language of this legislation.

The Attorney General respectfully asks the House Judiciary Committee to give House Bill 1308, a "Do Pass" recommendation, with the proposed amendments.

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

C:\Documents and Settings\jgrossman\My Documents\Legislation 2009\Security Freeze\HB 1308 House Testimony.doc

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308  
HOUSE JUDICIARY COMMITTEE  
DUANE DEKREY, CHAIRMAN  
JANUARY 27, 2009

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

Page 1, line 10, after "request" insert "unless one of the following circumstances applies:

- a. The consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03; or
- b. The consumer reporting agency's ability to remove the security freeze within fifteen minutes is prevented by:
  - (1) A natural disaster or act of God, including fire, earthquake, or hurricane;
  - (2) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, or a labor strike or similar labor dispute disrupting operations;
  - (3) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, or computer hardware or software failures inhibiting response time;
  - (4) Governmental action, including emergency orders or regulations or judicial or law enforcement action;
  - (5) Receipt of a removal request outside of normal business hours; or
  - (6) Maintenance of, updates to, or repair of the consumer reporting agency's systems, whether regularly scheduled, unscheduled, or unexpected.
- c. For the purposes of this section, "normal business hours" means from six a.m. to nine-thirty p.m., central standard time or central daylight time, seven days a week, excluding holidays.

Renumber accordingly



**HB 1308**  
**House Judiciary Committee**  
**January 26, 2009**

*Same given  
to Senate.*

Chairman DeKrey and members of the House Judiciary Committee. I am Linda Johnson Wurtz, Associate State Director for Advocacy for AARP North Dakota. Today I represent our nearly 88,000 North Dakota members.

AARP North Dakota supported HB 1417 which established the security freeze in 2007. We are here to support HB 1308 which adds the benefit of a 15 minute response to a request for a temporary lift of the freeze. This provides consumers with greater access to their credit, while continuing the protection of a security freeze.

Please give your positive recommendation to HB 1308.

#1<sup>a</sup>

SENATE INDUSTRY BUSINESS & LABOR COMMITTEE  
SENATOR JERRY KLEIN, CHAIRMAN  
MARCH 16, 2009

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

Mr. Chairman and members of the Senate Industry Business & Labor Committee. I am Parrell Grossman, Director of the Attorney General's Consumer Protection and Antitrust Division. I appear on behalf of Attorney General Wayne Stenehjem in support of Engrossed House Bill 1308 and to offer proposed amendments for your consideration.

Identity theft is a serious problem that requires constant vigilance, evolving tools, and rigorous enforcement efforts to combat. Therefore, in 2007 the legislature enacted North Dakota's security freeze law codified in N.D.C.C. ch. 51-33 which allows North Dakota residents to take additional steps to protect themselves from ID theft.

Financial institutions, credit card companies, cell phone companies, etc. will not grant credit to consumers without reviewing the consumers' credit files. The security freeze law allows consumers to place a security freeze on their credit reporting files with the credit reporting agencies, Equifax, Experian, and TransUnion. When a security freeze has been placed by the consumer, entities granting extensions of credit are prohibited access to a consumer's credit reporting file without the consumer's permission.

At the time the credit reporting agency places the freeze it provides the consumer a personal identification number or a password that will permit entities access to the consumer's credit file with the consumer's permission.

Consumers who apply for credit may request the credit reporting agencies to temporarily lift or "thaw" the security freeze to allow the entity to access the consumer's credit file in order to make a decision on the consumer's application for a loan or services, etc.

The current law allows the credit reporting agency up to three days to temporarily lift the security freeze upon the consumer's request. At the time North Dakota's security freeze law was enacted, all states with security freeze laws had similar provisions allowing three days for the temporary lift.

Due to the inconvenience to businesses and consumers and the delays incurred in transactions involving the extension of credit, one or two states initially required that the credit reporting agencies be able to temporarily lift the security freeze within fifteen minutes, starting in 2008. The Attorney General of North Dakota anticipated that the credit reporting agencies would soon have technologies and procedures in place and would be able to provide this service in all states. Therefore, he opted to wait and not suggest the North Dakota legislature mandate this requirement prior to this time.

There are now approximately 18 states that require a fifteen minute thaw as of 2008 or will so require during 2009. The Attorney General believes it is now time to require and implement a fifteen minute thaw in North Dakota.

Some consumers have expressed to the Attorney General a reluctance to place a security freeze until there is a procedure that provides a fifteen minute thaw, as currently provided in many other states. Some consumers simply want that request for credit to be immediately approved so that they can obtain a new credit card, purchase a new car or new furniture, or obtain cell phone services without any delay, and do not want to wait up to three days for their security freeze to be thawed.

The fifteen minute thaw will serve two important purposes. It now will allow more consumers to take advantage of the opportunity to place a security freeze to protect themselves from ID theft and it will eliminate the consumer transaction delays incurred with the current three days' temporary lift.

The Attorney General, however, is proposing some amendments to Engrossed House Bill Number 1308 to provide some exceptions from the fifteen minute temporary lift. The credit reporting agencies have indicated that they will not be able to process in fifteen minutes a request by mail for a temporary lift. Requests by telephone and through secure electronic connections (i.e. websites) can be immediately processed in real time as they are received. Therefore, the temporary lift can be completed within the fifteen minutes. The credit reporting agencies indicate it is not possible to handle the requests by mail in this same manner as such requests will be combined with all incoming mail and reviewed accordingly without the ability to determine when the mail was received and respond within fifteen minutes, etc.

The Attorney General has agreed to recommend that requests for temporary lifts received by mail be completed within two business days. Therefore, the Attorney General has prepared amendments to provide for a fifteen minute lift when the requests are received by telephone or secure electronic connection and two business days when received by mail.

The Attorney General respectfully asks the Senate Industry, Business and Labor Committee to give Engrossed House Bill Number 1308, a "Do Pass" recommendation, with the proposed amendments.

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

#1<sup>a</sup>

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1308  
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE  
JERRY KLEIN, CHAIRMAN  
MARCH 16, 2009

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

Page 1, line 7, after "request" insert "by mail"

Page 1, line 9, after "~~three~~" insert "two", remove the overstrike over "~~business days~~", and remove "fifteen minutes"

Page 1, line 10, remove "one of the following circumstances applies:"

Page 1, line 11, replace "(1) The", with "the"

Page 1, line 13, replace "; or" with an underscored period

Page 1, after line 13, insert:

"b. A consumer reporting agency that receives a request by telephone or through a secure electronic connection from a consumer to temporarily lift a freeze on a consumer credit file under this section shall comply with the request no later than fifteen minutes after receiving the request unless"

Page 1, line 14, replace "(2) The" with "the"

Page 1, line 16, replace "(a)" with "(1)"

Page 1, line 18, replace "(b)" with "(2)"

Page 1, line 21, replace "(c)" with "(3)"

Page 2, line 1, replace "(d)" with "(4)"

Page 2, line 3, replace "(e)" with "(5)"

Page 2, line 5, replace "(f)" with "(6)"

Page 2, line 8, replace "b." with "c."

Renumber accordingly

#1b

REVISED PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1308  
SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE  
JERRY KLEIN, CHAIRMAN  
MARCH 17, 2009

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

Page 1, line 7, after "request" insert "by mail"

Page 1, line 9, after "~~three~~" insert "two", remove the overstrike over "~~business days~~", and remove "fifteen minutes"

Page 1, line 10, remove "one of the following circumstances applies:"

Page 1, line 11, replace "(1) The", with "the"

Page 1, line 13, replace ": or" with an underscored period

Page 1, after line 13, insert:

"b.    A consumer reporting agency that receives a request by telephone or through a secure electronic connection from a consumer to temporarily lift a freeze on a consumer credit file under this section shall comply with the request no later than fifteen minutes after receiving the request unless the consumer fails to provide proper identification and the unique personal identification number or password provided by the credit reporting agency under section 51-33-03; or"

Page 1, line 14, replace "(2) The" with "the"

Page 1, line 16, replace "(a)" with "(1)"

Page 1, line 18, replace "(b)" with "(2)"

Page 1, line 21, replace "(c)" with "(3)"

Page 2, line 1, replace "(d)" with "(4)"

Page 2, line 3, replace "(e)" with "(5)"

Page 2, line 5, replace "(f)" with "(6)"

Page 2, line 8, replace "b." with "c."

Renumber accordingly