

HOUSE BILL REPORT

HB 1250

As Reported By House Committee On:

Financial Institutions & Insurance

Title: An act relating to protecting the privacy of financial information.

Brief Description: Protecting the privacy of financial information.

Sponsors: Representatives McIntire, Keiser, Sullivan, Santos, Benson, Hatfield, Quall, Barlean, Hurst, Dunshee, Bush, Constantine, Dickerson, Rockefeller, O'Brien and Kenney.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/9/99, 2/18/99 [DPS].

Brief Summary of Substitute Bill

- Prohibits fraudulently obtaining financial information and prohibits identity theft. Both are defined as class C felonies and civil damages also are available.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean; DeBolt; Keiser; Quall; Santos; Sullivan and Talcott.

Staff: Charlie Gavigan (786-7340).

Background:

Theft of property or services is a crime, including theft of a device to access financial services. Factoring of a credit transaction also is a crime; this is a transaction in which a person attempts to commit fraud or theft against the owner of a credit card or the financial institution and causing harm of at least \$1,000. Criminal impersonation

is the assuming of a false identity and acting within that assumed character with intent to defraud or for other unlawful purposes; it is a gross misdemeanor.

Summary of Substitute Bill:

It is a class C felony for a person to wrongfully obtain, attempt to obtain, or request another to obtain financial information from a financial information repository. A financial information repository is any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person. There are exceptions provided, such as for law enforcement and for agents of financial information repositories working in conjunction with law enforcement. In addition to the criminal penalty, a person that violates this provision is liable for five hundred dollars or actual damages, whichever is greater, and reasonable attorneys' fees. If the person is a business that repeatedly violates this provision, that person also violates the Consumer Protection Act.

Theft of identity is defined as a class C felony; it is using or transferring another person's means of identification with the intent to commit, or to aid or abet, any unlawful activity harming or intending to harm the person whose identity is used, or for committing any felony. In addition to the criminal penalty, a person that violates this section is liable for \$500 or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees. If the person committing identity theft is a business that repeatedly commits identity theft, that person also violates the Consumer Protection Act.

Substitute Bill Compared to Original Bill:

The substitute bill deletes provisions prohibiting financial institutions and others from improperly disclosing financial information to others and deletes provisions prohibiting the sale of financial information to third parties. The substitute bill modifies the definition of financial information and defines financial information repository. Modifications are made to provisions prohibiting falsely obtaining financial information and defining identity theft.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2000.

Testimony For: (Original Bill) It is important that identity theft be defined as a separate crime; often the merchant or the financial institution suffers the loss and the

person whose identity is stolen to commit these acts is not considered a victim by law enforcement. Efforts to protect the privacy of financial information are needed.

Testimony Against: (Original bill) While the provisions prohibiting identity theft and falsely obtaining financial information are fine, the provisions making it a crime to improperly release financial information or sell financial information are too broad. These provisions regarding the release of information may limit an insurance company's ability to fight fraud and underwrite policy applications, and likely will make it more difficult for process servers to find people to serve them with legal documents. Sharing information among affiliates could also be limited.

Testified: (In support) Representative McIntire, prime sponsor; and Eileen Stauss, private citizen.

(In support with concerns) Janeane Dubuar, Computer Professionals for Social Responsibility; and Representative Shirley Hankins.

(Concerns) Scott Gaspard, Washington Savings League; Bruce Koppe, Washington Bankers Association; Gary Gardner, Boeing Employees Credit Union; Tom Echols, Household Financial Corporation; Jerry Sheehan, American Civil Liberties Union; and Stacey Augustine, Washington Credit Union League.

(Opposed) Mel Sorensen, National Association of Independent Insurers; Tom Hosea and Steve Gano, Key Bank; Rob Mullins and Robert Zornes, Washington State Process Servers Association; and Basil Badley, American Insurers Association.

(Answer Questions) Eric Robertson, Washington State Patrol.