

HOUSE BILL ANALYSIS

HB 1250

Title: Relating to protecting the privacy of financial information.

Brief Description: Protecting the privacy of financial information.

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

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Meeting Date: February 9, 1999

Bill Analysis Prepared by: 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 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 five hundred dollars 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 vs original: 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 identity theft.

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.

witnesses (original bill): Representative McIntire, prime sponsor (supports); Representative Shirley Hankins (supports with concerns); Eileen Stauss (supports); Mel Sorensen, National Association of Independent Insurers (opposes); Jerry Sheehan, American Civil Liberties Union (concerns); Tom Hosea and Steve Gano, Key Bank (oppose); Scott Gaspard, Washington Savings League (concerns); Bruce Koppe, Washington Bankers Association (concerns); Gary Gardner, Boeing Employees Credit Union (concerns); Tom Echols, Household Financial Corporation (concerns); Rob Mullins and Robert Zornes, Washington State Process Servers Association (oppose); Basil Badley, American Insurers Association (opposes); Stacey Augustine, Washington Credit Union League (concerns); Janeane Dubuar, Computer Professionals for Social Responsibility (supports with concerns); and Eric Robertson, Washington State Patrol.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: January 1, 2000.