

**MINUTES OF THE SUBCOMMITTEE OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session  
February 23, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair John Lee at 9:18 a.m. on Wednesday, February 23, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator John Lee, Chair  
Senator Randolph J. Townsend  
Senator Warren B. Hardy II

**GUEST LEGISLATORS PRESENT:**

Senator Bob Beers, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Scott Young, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Lynn Hendricks, Committee Secretary  
Jeanine Wittenberg, Committee Secretary

**OTHERS PRESENT:**

Kathleen Delaney, Deputy Attorney General, Bureau of Consumer Protection,  
Office of the Attorney General  
Eric J. Ellman, Consumer Data Industry Association  
Mary Lau, Retail Association of Nevada  
Tim Crowley, MGM Mirage  
Jennifer Lazovich, Boyd Gaming Corporation  
Joseph Guild, State Farm Insurance Company  
Cheryl Blomstrom, Nevada Consumer Finance Association

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CHAIR LEE:

Senate Bill (S.B.) 80 was referred to Senate Committee on Commerce and Labor. Senator Bob Beers (Clark County Senatorial District No. 6) introduced the bill to the Senate Committee on Commerce and Labor Wednesday, February 23, 2005. It was then referred to this subcommittee now meeting upon adjournment of the Senate Committee on Commerce and Labor meeting.

**SENATE BILL 80**: Establishes requirements and procedures for consumers to place security alerts and security freezes in certain files maintained by credit reporting agencies. (BDR 52-284)

CHAIR LEE:

Eric Ellman of Consumer Data Industry Association informed the Committee in its earlier meeting that federal law may have preempted most of this bill. There are still states that have a freeze in place on credit reports. Kathleen Delaney, Bureau of Consumer Protection, Office of the Attorney General, is in support of this bill. They want to use your bill as a vehicle to work against other statutes. They may be adding a friendly amendment, whereby the consumer must be notified if a company knows it may have been victimized or could possibly be victimized by other actions taking place elsewhere.

SENATOR BOB BEERS (Clark County Senatorial District No. 6):

The topics of these two bills are separate issues. I would like to see the Attorney General's bill considered separately.

KATHLEEN DELANEY (Deputy Attorney General, Bureau of Consumer Protection, Office of the Attorney General):

We introduced the idea today and wanted to bring it to subcommittee. We would consider it a privilege to offer an amendment. We felt these bills could be taken together as they were related enough to be consumer protection for those people who have been victimized by identity theft. We will agree to draft a separate bill. We apologize; we were unable to speak to Senator Beers' staff in advance. This is why we introduced the idea today. We do want to honor his request. These issues are important to consumer protection. We want to be sure they are brought forward somewhere.

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SENATOR TOWNSEND:

Ms. Delaney, we do have an additional bill. You will need to submit the information to us as soon as possible. The Senate Committee on Commerce and Labor has availability for a bill draft if you need it.

MS. DELANEY:

The Attorney General has a placeholder on a bill draft request earmarked for identity theft. I understand we can use it as a vehicle for this bill. We will pursue this. Thank you for the opportunity.

CHAIR LEE:

Senator Beers, regarding S.B. 80, as previously agreed we will strike sections 2 through 8. Are you satisfied this is handled properly by federal law?

SENATOR BEERS:

I am satisfied that we are preempted from doing anything by the federal government in the areas covered by sections 2 through 8.

CHAIR LEE:

At this time, we will be dealing with section 9 to the end of the bill. Would you like to continue or hear the opposition?

SENATOR BEERS:

I can eliminate some of the detractors. The consumer would receive a personal identification number (PIN) to use with an authorized credit checker. The consumer would not have to specifically contact the credit company. The process of checking credit and allowing credit would proceed without interruption. The effect of this would be that the companies offering credit would update their forms to reflect the need for a PIN to proceed with the credit data. I am not sure how feasible this is.

CHAIR LEE:

Would this PIN option be on the forms at the time someone makes an application for credit?

SENATOR BEERS:

A merchant who knows they will be accessing the consumer's credit history, and making a decision granting or denying credit, would request the PIN on their forms. This is how they would access the credit reports.

ERIC ELLMAN (Consumer Data Industry Association):

We represent the credit reporting industry. Senator Beers' proposal for a password to go to the lender is a new concept; it is not used in the states that have file-freeze laws. This would be a significant concern for the various lending institutions. They would have to create a special Nevada application form which would be different from the other 49 states in order to do business here. This concept has not been tested in any of the four states with the file-freeze laws. File freezing could affect background checks using credit reports for prospective employees. Homeland security would have a problem doing background checks on prospective workers using this concept. There are many programs in place, some voluntary, in the credit-reporting and credit-granting communities as well as numerous new federal protections that meet this need.

CHAIR LEE:

Senator Beers, Mr. Ellman mentioned that your situation was not identity theft, but an internal problem with the lending institution.

SENATOR BEERS:

If I had asked for a security freeze, the people who accessed my credit history to grant this other person credit would have been denied credit. This person would have then realized there was an error and pursued the report further to find a mistake had been made.

CHAIR LEE:

The bill has a 90-day freeze period written into it. Would you freeze your credit every 90 days?

SENATOR BEERS:

Yes, this could be extended out to 180 days or more.

SENATOR HARDY:

Mr. Ellman, I am notified by my credit company every time someone accesses my credit history. There is a slight fee involved. This way I know what is happening regarding my account. What is the law regarding notification? Is there no recording requirement?

MR. ELLMAN:

Federal law allows consumers to get one free credit report per year from each of the three national credit reporting agencies. Many consumer advocates suggest

these requests be spread out over the course of a year. We encourage consumers to check their credit regularly. Residents of Nevada can do these many times during the year. There are many file-monitoring systems available for the consumer.

SENATOR HARDY:

How cumbersome would it be for those who want to request a notification of any access to their credit?

MR. ELLMAN:

There are two kinds of inquiries about consumer credit history from lender agencies. There are hard inquiries, where the consumer has applied for credit, and soft inquiries, where the inquiries are not initiated by the consumer. Consumers are usually aware of these inquiries.

File freezing unfortunately fits this category. We have been involved with many programs for consumer protection because we know it is the right thing to do. Congress has taken many of our volunteer ideas and programs and put the force of federal law behind them. In addition to the federal laws, the Attorney General for the State of Nevada has the power to litigate in State or federal court against the credit industry. Consumers have the same option. Given time, the new federal laws will be effective. Identity fraud is beginning to taper off, mainly because of what we have done at all levels of government, business and the private sector.

SENATOR TOWNSEND:

The PIN issue needs to be explored further. Mr. Ellman, did you state that the credit card solicitations received through the mail are the result of someone accessing your credit report?

MR. ELLMAN:

Yes. Both federal and State law allow these companies to access your credit history to offer preapproved credit cards you receive in the mail. The consumer may call 1-888-5-OPT OUT to opt out of these sorts of solicitations.

SENATOR TOWNSEND:

Will calling this number stop the access of my accounts to the soliciting credit card company?

MR. ELLMAN:

This will stop access for preapproved offers. Everyone in this room shares a common goal. We all want a solution to this problem. We are trying to reduce and prevent identity fraud. Senator Beers' heart is in the right place. I like to think our heart is also in the right place. All of our member companies are heavily regulated by federal and State credit-reporting laws. We want to do the right things. This is a huge and complex issue.

CHAIR LEE

Would this bill allow someone to put a credit freeze on their spouse?

SENATOR BEERS:

I would imagine either one could put a freeze on the other's credit. It would be hard to distinguish an identity thief from me if he was applying for a credit card. If every time a hard request for an application of credit, a communication was sent to the consumer that someone was making a request in their name, this might prevent the identity theft.

MARY LAU (Retail Association of Nevada):

We do have concerns about this bill. Legitimate businesses have legitimate reasons to get credit history. All credit forms would have to have a PIN space available. Another concern has to do with preemployment credit screening. Mandatory screening is now requested, for instance, with child care or health care information.

SENATOR TOWNSEND:

The original premise is a voluntary issue. The choice is made by the consumer. There is nothing the retail store or any other agency has to do unless the consumer becomes proactive with a purchase of an item for credit.

MS. LAU:

From the merchant's standpoint, we would not know if the consumer has made this decision. The form would still have to refer to a PIN.

SENATOR TOWNSEND:

Consumers would make the call to remove the freeze on their credit report. This would not be a burden on the retailer.

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Ms. LAU:

Yes, I read the bill the same way.

SENATOR TOWNSEND:

Do you or your national organization work with high schools and other youth organizations to educate them about establishing credit, protecting their credit and their credit identity?

Ms. LAU:

Actually, we had a program for years called, "Train the Trainer" brought to students through the home economics classes of schools. We trained the teachers how to present the varied credit issues. We lost these opportunities as the school's mandatory programs have become a priority.

TIM CROWLEY (MGM Mirage):

We do extend credit to our customers with their knowledge. They are proactive and want the line of credit. We do the credit search when requested. We would like to work with this Committee to help reach a conclusion.

JENNIFER LAZOVICH (Boyd Gaming):

I echo Mr. Crowley's comments. We want to be involved in the process to help reach a conclusion to this issue.

Joseph Guild (State Farm Insurance Company):

The insurance industry does have some concerns relative to the information used in credit-scoring insurance customers. Insurance companies usually do not use credit information, but we contract with companies that do. I would like to reserve the right to come back to the subcommittee with our concerns at a later date.

CHERYL BLOMSTROM (Nevada Consumer Finance Association):

We have concerns with this bill, especially with the preemployment screening issue. Assembly Bill No. 490 of the 72nd Session requires mortgage brokers/agents be licensed, and part of this process is a background investigation with credit-report screening. We want to preserve this right because it is our responsibility to do this. Additional concern has to do with gathering information about lenders with online credit applications.

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CHAIR LEE:

The bill is brought forward as a consumer option. The consumer makes the choice to protect himself. Senator Beers, this is a worthy bill you bring forth. The bill is left with you for further action.

The hearing is now closed at 10:09 a.m.

RESPECTFULLY SUBMITTED:

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Shirley Parks,  
Committee Secretary

APPROVED BY:

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Senator John Lee, Chair

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