

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 31, 2008

1:42 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Charlie Huggins, Vice Chair
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Gene Therriault

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 65(FIN)

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil Procedure; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 88(FIN)

"An Act relating to televisions, monitors, portable computers, and similar devices in motor vehicles; relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and providing for an effective date."

SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 65

SHORT TITLE: PERSONAL INFORMATION & CONSUMER CREDIT

SPONSOR(S): REPRESENTATIVE(S) COGHILL, GARA

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	L&C, JUD, FIN
01/31/07	(H)	L&C AT 3:00 PM CAPITOL 17
01/31/07	(H)	<Bill Hearing Canceled>

03/28/07 (H) L&C AT 3:00 PM CAPITOL 17
03/28/07 (H) Heard & Held
03/28/07 (H) MINUTE(L&C)
04/04/07 (H) L&C AT 3:00 PM CAPITOL 17
04/04/07 (H) <Bill Hearing Canceled>
04/16/07 (H) L&C AT 10:00 AM CAPITOL 17
04/16/07 (H) Scheduled But Not Heard
04/20/07 (H) L&C AT 3:00 PM CAPITOL 17
04/20/07 (H) Heard & Held
04/20/07 (H) MINUTE(L&C)
04/23/07 (H) L&C AT 3:00 PM CAPITOL 17
04/23/07 (H) Moved CSHB 65(L&C) Out of Committee
04/23/07 (H) MINUTE(L&C)
04/24/07 (H) L&C RPT CS(L&C) 2DP 3NR 1AM
04/24/07 (H) DP: GATTO, NEUMAN
04/24/07 (H) NR: BUCH, LEDOUX, OLSON
04/24/07 (H) AM: GARDNER
05/02/07 (H) JUD AT 1:00 PM CAPITOL 120
05/02/07 (H) Heard & Held
05/02/07 (H) MINUTE(JUD)
05/05/07 (H) JUD AT 8:00 AM CAPITOL 120
05/05/07 (H) Moved CSHB 65(JUD) Out of Committee
05/05/07 (H) MINUTE(JUD)
05/07/07 (H) JUD RPT CS(JUD) NT 4DP 2AM
05/07/07 (H) DP: HOLMES, LYNN, COGHILL, RAMRAS
05/07/07 (H) AM: DAHLSTROM, SAMUELS
01/23/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
01/23/08 (H) Heard & Held
01/23/08 (H) MINUTE(FIN)
02/13/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/13/08 (H) Heard & Held
02/13/08 (H) MINUTE(FIN)
02/18/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/18/08 (H) Heard & Held
02/18/08 (H) MINUTE(FIN)
02/19/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/19/08 (H) Moved CSHB 65(FIN) Out of Committee
02/19/08 (H) MINUTE(FIN)
02/21/08 (H) FIN RPT CS(FIN) NT 4DP 5NR
02/21/08 (H) DP: HAWKER, CRAWFORD, GARA, NELSON
02/21/08 (H) NR: KELLY, THOMAS, STOLTZE, MEYER,
CHENAULT
02/27/08 (H) TRANSMITTED TO (S)
02/27/08 (H) VERSION: CSHB 65(FIN)
02/29/08 (S) READ THE FIRST TIME - REFERRALS
02/29/08 (S) L&C, JUD, FIN
03/04/08 (S) L&C AT 1:30 PM BELTZ 211

03/04/08	(S)	Heard & Held
03/04/08	(S)	MINUTE(L&C)
03/13/08	(S)	L&C AT 1:30 PM BELTZ 211
03/13/08	(S)	Scheduled But Not Heard
03/15/08	(S)	L&C AT 4:00 PM BELTZ 211
03/15/08	(S)	Heard & Held
03/15/08	(S)	MINUTE(L&C)
03/18/08	(S)	L&C AT 1:30 PM BELTZ 211
03/18/08	(S)	Moved CSHB 65(L&C) Out of Committee
03/18/08	(S)	MINUTE(L&C)
03/19/08	(S)	L&C RPT SCS 4DP SAME TITLE
03/19/08	(S)	DP: ELLIS, BUNDE, DAVIS, STEVENS
03/29/08	(S)	JUD AT 9:00 AM BUTROVICH 205
03/29/08	(S)	Heard & Held
03/29/08	(S)	MINUTE(JUD)
03/31/08	(S)	JUD AT 1:30 PM BELTZ 211

WITNESS REGISTER

KAREN LIDSTER, Staff
to Representative Coghill
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Explained proposed amendments to HB 65 on behalf of the sponsor.

ED SNIFFEN, Senior Assistant Attorney General
Civil Division
Commercial/Fair Business Section
Department of Law (DOL)
Anchorage, AK

POSITION STATEMENT: Responded to questions related to proposed amendments to HB 65.

JON BURTON, Assistant Vice President
State and Government Relations
ChoicePoint Inc.
Alpharetta, GA

POSITION STATEMENT: Commented on a proposed amendment to HB 65.

AUDREY ROBINSON, Manager
State and Government Affairs
Reed Elsevier, parent company
for LexisNexis

POSITION STATEMENT: Commented on a proposed amendment to HB 65.

JENNIFER FLYNN, Senior Manager
Consumer Data Industries Association (CDIA)
POSITION STATEMENT: Commented on a proposed amendment to HB 65.

MURRAY JOHNSTON, Director
State and Government Affairs
Experian
POSITION STATEMENT: Commented on a proposed amendment to HB 65.

GAIL HILLEBRAND, Attorney at Law
Consumers Union West Coast Office
San Francisco, CA
POSITION STATEMENT: Provided consumer perspective on a proposed amendment to HB 65.

ACTION NARRATIVE

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at [1:42:17 PM](#). Present at the call to order were Senators French, Huggins, Therriault, and McGuire. Senator Wielechowski arrived soon thereafter.

HB 65-PERSONAL INFORMATION & CONSUMER CREDIT

[1:42:30 PM](#)

CHAIR FRENCH announced the consideration of HB 65. Before the committee was SCS CSHB 65(L&C). The committee is trying to steer a middle ground between gutting the bill and shutting down business in the state of Alaska, he said. He asked the sponsor's representative to explain the proposed amendments.

KAREN LIDSTER, staff to Representative Coghill, said that the amendments are the result of discussion in the hearing last Saturday.

CHAIR FRENCH explained the process for considering the amendments and Ms. Lidster agreed.

CHAIR FRENCH moved Amendment 1, 25-LS0311\T.3, Banister, and objected for discussion purposes.

A M E N D M E N T 1

OFFERED IN THE SENATE
TO: SCS CSHB 65(L&C)

Page 2, line 19, following "investigation":

Delete "or"
Insert "and"

MS. LIDSTER explained that the change narrows the scope with respect to what the requirements would be if a covered person finds there is a breach of personal information.

[1:45:08 PM](#)

SENATOR McGUIRE said she wants to avoid a situation where a misplaced file or some other small technical breach encumbers business by requiring constant reporting for things that aren't really relevant. She suggested that a better definition for "breach" might be the place to start.

[1:46:44 PM](#)

MS. LIDSTER directed attention to page 5, line 23, for a definition of breach of security.

(1) "breach of the security" means unauthorized acquisition, or reasonable belief of unauthorized acquisition, of personal information that compromises the security, confidentiality, or integrity of the personal information maintained by the information collector;

The definition then talks about types of breach - whether it is paper-based or with a computer device. Subsection (b) on page 2, says that the information collector makes the disclosure without unreasonable delay after determining the scope of the breach and restoring the integrity of the information system. Subsection (c) says that after appropriate investigation, if it's determined that there is not a reasonable likelihood of harm to the consumer, then notification is not necessary. "We think that the definition and then [subsections] (b) and (c) cover that so it doesn't become something that is onerous to the businesses, but does not leave the resident in a position where their information is possibly in breach," she said.

SENATOR McGUIRE pointed out that even if the file is misplaced, it still requires reporting. She expressed concern with the amendment because it creates a situation where a paper trail is required in every instance.

[1:49:14 PM](#)

CHAIR FRENCH recounted his experience with the Department of Law with respect to immediately locating every one of the files in the department's possession. With that in mind, he isn't sure

that a juror would penalize a company that believed a file had been misplaced and didn't report a breach. It's a different matter if the file is missing 72 hours later, he said. If a file pops after going missing for hour, no one ever knows about it unless something bad happened, he said.

MS. LIDSTER said that if a file with "personal information" as defined on page 6 goes missing, any business that might have that kind of information must be accountable to make sure that the Alaska resident is protected. A lot of harm can occur quickly if someone's checking account or credit cards numbers are accessed, she said.

1:52:05 PM

SENATOR WIELECHOWSKI joined the meeting.

SENATOR McGUIRE asked if law enforcement agencies have been consulted and questioned whether the Anchorage Police Department would suddenly be overwhelmed with consultations regarding missing files.

MS. LIDSTER replied that change came up in the committee hearing on Saturday. She hasn't consulted with law enforcement agencies to find out who might handle the calls and what impact those might have.

SENATOR THERRIault said that his concern with line 19 is that local agencies would be consulted. If a file went missing from the Wells Fargo Bank in North Pole, he'd hate to think that only the city police would be contacted. If a breach occurred at a village health clinic, someone might only consult the Village Public Safety Officer (VPSO). Perhaps Mr. Sniffen wants to comment but the committee might want to consider dropping that option, he said.

1:54:31 PM

SENATOR McGUIRE said the committee might want to designate who would be contacted so there's no ambiguity about where the report is made.

CHAIR FRENCH suggested that the word "relevant" should be the tipoff.

SENATOR McGUIRE questioned how a merchant in Anchorage would know whether to call Ed Sniffen with the DOL, the APD fraud unit, or the FBI. She doesn't have that same comfort level and

she'd like to know who is envisioned and under what circumstance.

SENATOR THERRIAULT said he'd like Mr. Sniffen to comment on whether the DOL would be likely to pass regulations to provide that level of specificity if the amendment were to pass.

[1:56:30 PM](#)

ED SNIFFEN, Senior Assistant Attorney General, Civil Division, Commercial/Fair Business Section, Department of Law (DOL), surmised that depending on the type of breach, it would be difficult to pinpoint which agency should be notified. If the breach is in Alaska, notifying the attorney general's office would probably satisfy any circumstance. If the information needed to be forwarded to another federal or local agency that could probably be done. If a breach affecting Alaska residents occurred outside the state and the company was already in consultation with a federal agency about whether or not disclosure is required, that too would probably satisfy the requirement. He expects that when a federal agency is notified, the information will be passed along to the attorney general's office.

MR. SNIFFEN said that sophisticated companies would know who to contact, but whether or not a local merchant would know is a trickier call. The DOL could adopt regulations to make that clear, but that might not help the local merchant much. Making it too specific would require additional reporting for folks working on a broader level outside the state. When he reads the language he agrees with Senator McGuire and he also agrees with Senator Therriault that you don't want someone reporting to the VPSO. "You want to report to someone who actually understands what's going on, and can make a meaningful review of the...breach, and decide if disclosure is required." He would not oppose removing reference to "local" agency, but some municipalities outside the state may have the authority and be well able to make a competent review. To some extent it's a moving target and the current language is probably clear enough, he said.

[2:00:22 PM](#)

CHAIR FRENCH asked his view on changing the "or" to "and" on page 2, line 19.

MR. SNIFFEN replied it's good change that will avoid the self-policing issue that Senator Therriault raised. Requiring the additional informal consultation wouldn't be onerous.

CHAIR FRENCH asked if he would be willing to have his name on a hotline posted at credit card businesses across the state.

MR. SNIFFEN suggested the attorney general's name be posted.

CHAIR FRENCH removed his objection to Amendment 1 and asked if there was further objection.

[2:02:40 PM](#)

SENATOR MCGUIRE said she likes the premise of the bill, but she's nervous about the mandatory reporting requirement and that businesses would have to figure it out.

CHAIR FRENCH said he could support removing the phrase "or local" because that option may not be helpful. Notifying a relevant federal or state agency gets to the level of government official that inspires more confidence and eliminates the VPSO issue altogether. The underlying issue of whether you must notify law enforcement on the way to arriving at a decision to not make a disclosure is a balance point that's worth striking, he said. Without the "or" in the phrase "after an appropriate investigation or after consultation," many security breaches will never be disclosed.

[2:05:02 PM](#)

SENATOR MCGUIRE said that's why it's so important to be specific about whom to consult. The assumption is that the person who is contacted will have a broader knowledge-base to say that this does in fact constitute a breach.

CHAIR FRENCH said he agrees with her point, but Amendment 1 deals with the first half of line 19 on page 2. It asks if there must be a report to somebody and he's come to the conclusion that there should be.

[2:06:34 PM](#)

SENATOR WIELECHOWSKI said he can envision times when it might be beneficial to contact a local agency. For example, the health and social services department has a large presence in Anchorage and it gathers private information. He'd hate to think that contacting that agency would not be a consideration.

CHAIR FRENCH asked if he means you'd consult that agency about a breach.

SENATOR WIELECHOWSKI replied he understands the thrust of Senator McGuire's question, and he can envision times when it might be beneficial to contact a local agency.

CHAIR FRENCH called a point of order saying that Amendment 1 does not determine with whom to consult; it asks whether consultation is required.

SENATOR MCGUIRE said that's technically true, but with whom to consult becomes relevant if the amendment passes since it would require the consultation. She asked Senator Therriault if this was contemplated in the first iterations of the bill.

[2:08:49 PM](#)

SENATOR THERRIAULT relayed that subsection (c) wasn't in the previous version of the bill. He agreed with the Chair that it lessens the sting of the disclosure provisions.

CHAIR FRENCH said he agrees that the agency issue needs some clarification, but he tends to favor at least having the consultation take place before deciding that disclosure isn't necessary.

[2:10:09 PM](#)

SENATOR MCGUIRE asked if Mr. Sniffen could give that some thought overnight.

MR. SNIFFEN agreed to do so.

SENATOR MCGUIRE reiterated that she wants to make sure that it's clear, so there aren't unwitting law violators.

CHAIR FRENCH suggested the committee first decide on the amendment. He withdrew his objection and finding no further objection or discussion, he announced that Amendment 1 is adopted. He added that the committee would continue to focus on the second part of the sentence to make sure that people doing business in the state aren't confused or misled.

[2:12:48 PM](#)

CHAIR FRENCH moved Amendment 2, 25-LS0311\T.4, Bannister, and objected for discussion purposes.

A M E N D M E N T 2

OFFERED IN THE SENATE
TO: SCS CSHB 65(L&C)

Page 9, line 2:

Delete ", except as provided for insurers under (g) of this section,"

Page 9, lines 5 - 15:

Delete all material.

Reletter the following subsections accordingly.

Page 15, line 18:

Delete "or"

Page 15, line 26, following "screening":

Insert "; or

(11) a person for use for insurance purposes in setting a rate, adjusting a rate, adjusting a claim, or underwriting, except that this paragraph may not be interpreted to authorize an insurance practice that is prohibited by other law"

MS. LIDSTER said the amendment removes subsection (g) on page 9 and inserts paragraph (11) on page 15. It would allow insurance companies access to a consumer's information for specific purposes when there is a security freeze. The amendment is the result of committee discussion during the last hearing, she said. The sponsor continues to believe that when a consumer places a security freeze on his or her information it should be secured and frozen, unless the consumer specifically lifts the freeze. This amendment is not the sponsor's first choice, she said.

[2:16:13 PM](#)

CHAIR FRENCH read the explanation attached to the amendment and asked if it's an accurate synopsis.

MS. LIDSTER said it is.

SENATOR THERRIAULT said he understands that the issue of people stealing personal information to apply for insurance isn't a real concern. However, he'd like Mr. Sniffen or Ms. Hillebrand to weigh in about unintended consequences.

CHAIR FRENCH asked for clarification that this does not cover the circumstance of a person who loses their wallet and places a credit freeze on their information and then wants to get a quote for the purpose of buying insurance.

MS. LIDSTER explained that if she placed a credit freeze on her information and then wanted to get an insurance policy, the insurance company would need access to her financial information to do a credit check. As originally drafted the insurance companies would not have access, but the amendment would allow access for the specific purpose.

CHAIR FRENCH asked if he would have to give the insurance company permission to access his information.

[2:18:48 PM](#)

MS. LIDSTER replied not if this amendment is adopted.

CHAIR FRENCH pointed out that he would have instigated the request by having asked for an insurance quote.

MS. LIDSTER agreed, but the amendment takes the question of giving permission out of the equation, she said.

SENATOR McGUIRE asked to hear from Mr. Sniffen because she recalled that a bill passed several years ago said that insurance companies would not use credit scores as a means of ascertaining rates.

[2:20:22 PM](#)

MR. SNIFFEN said he believes there is an exemption in that legislation to allow insurance companies to use credit information for the first two years only.

SENATOR McGUIRE said if the consumer can lift the ban and the consumer wants to buy the insurance she questions the need for more than the standard "I give permission to lift my freeze or not."

MS. LIDSTER said it's a policy choice for the committee.

CHAIR FRENCH characterized the provision as a concession to industry.

MS. LIDSTER agreed.

[2:22:46 PM](#)

SENATOR THERRIAULT commented that Senator McGuire being under the impression that industry is no longer allowed to use credit scores is an indication of what happened to that bill. "It got nibbled to death." Regardless of what legislators thought they

did, insurance companies can, for the first two years, use credit scores to quote a rate to buy insurance in Alaska. After two years, the insurance company presumably knows your history so it's no longer necessary to have access to your credit score. That's why we need to be careful that we're not creating a bigger loophole than we think, he said. He suggested the committee ask Mr. Sniffen to weigh in.

CHAIR FRENCH asked Mr. Sniffen what danger proposed Amendment 2 presents.

MR. SNIFFEN said it's entirely a policy call, but he's not aware of any harm that has come to Alaskans from insurance agents having access to this information. He understands that a lot of other states allow these kinds of exemptions so he assumes that the debate has taken place elsewhere and it's fallen on the side of allowing the exemption. Nonetheless, from the consumer perspective it's another loophole that perhaps should be avoided, he said.

[2:26:10 PM](#)

CHAIR FRENCH cited the hypothetical example of applying for new car insurance after having placed a freeze on his credit because of a lost wallet. He questioned whether the insurance company wouldn't tell him he must lift the freeze if he wants a quote.

MR. SNIFFEN agreed that would likely happen.

CHAIR FRENCH asked if he would need to lift the freeze for all purposes or just to complete that particular transaction.

MR. SNIFFEN replied he believes the freeze could be lifted for a period of time, but he isn't sure about lifting it for a specific transaction. There are ways to do it, but the process may be time consuming and carry associated fees, he added.

[2:28:05 PM](#)

CHAIR FRENCH commented that the amendment doesn't seem to have a lot of danger for either side.

SENATOR WIELECHOWSKI expressed the same sentiment He asked Mr. Sniffen what the real danger is in passing the amendment.

CHAIR FRENCH relayed that he heard Mr. Sniffen say that the more loopholes there are, the worse off you are.

MR. SNIFFEN said that in the greater scheme, he doesn't see a lot of danger. He hasn't heard of anyone using the insurance exemption in other states for illegal purposes. But, he said, it is another exemption.

SENATOR MCGUIRE commented that she's come full circle and believes the amendment is consumer friendly. She questioned whether there's been any discussion about removing security freezes that are less blanket and more targeted toward specific authorized purposes.

[2:31:34 PM](#)

SENATOR THERRIAULT asked Ms. Lidster to comment on page 8, Sec.45.48.130, dealing with access and actions during a security freeze.

MS. LIDSTER relayed that the sponsor found that consumers can not lift a security freeze for particular parts of their information. If that were allowed, consumers could manipulate their credit rating by "thawing" only the good information. "When you freeze it, you freeze it all; when you lift it, the freeze comes off of everything," she said.

SENATOR MCGUIRE clarified her point was that the report in its entirety would be available to a specific authorized person and for a specified function. There's value to that, she said.

[2:33:24 PM](#)

SENATOR HUGGINS described the amendment as good and narrow-banded. It is an exception, but it's one of those things that's mandatory, he said.

SENATOR THERRIAULT asked Ms. Hillebrand to comment on whether other states have had problems with similar exceptions.

[2:34:42 PM](#)

GAIL HILLEBRAND, Attorney at Law, Consumers Union West Coast Office, said the amendment creates a loophole, but it doesn't undermine the basic purpose of the freeze. She pointed out that the security provisions allow consumers to lift a freeze for 15 minutes. It's not that inconvenient. In most other states where insurance has been exempted, it's been a concession to the nature of the industry and it hasn't interfered with the way the freeze laws work, she said.

CHAIR FRENCH removed his objection to Amendment 2 and finding no further objection, he announced that Amendment 2 is adopted.

[2:35:51 PM](#)

CHAIR FRENCH moved Amendment 3, 25-LS0311\T.5, Bannister, and objected for discussion purposes.

A M E N D M E N T 3

OFFERED IN THE SENATE

TO: SCS CSHB 65(L&C)

Page 18, line 19:

Delete "debt collection,"

Page 20, lines 9 - 10:

Delete "debt collection,"

MS. LIDSTER explained that the amendment removes "debt collection" as an exception to the prohibitions for requests, collections, and disclosures of a social security number.

SENATOR WIELECHOWSKI asked what the rationale was for removing that exception.

MS. LIDSTER said the exemption for debt collection was overly broad.

[2:38:59 PM](#)

CHAIR FRENCH asked whose ox is being gored.

MS. LIDSTER surmised it's anyone who is in business and trying to collect a debt. That exemption was added when fraud prevention and law enforcement issues were addressed.

CHAIR FRENCH asked Mr. Sniffen to comment on proposed Amendment 3.

MR. SNIFFEN said DOL has no objection to removing the exemption.

CHAIR FRENCH removed his objection to Amendment 3 and finding no further objection, he announced that Amendment 3 is adopted.

[2:41:01 PM](#)

CHAIR FRENCH moved Amendment 4, 25-LS0311\T.6, Bannister, and objected for discussion purposes.

A M E N D M E N T 4

OFFERED IN THE SENATE

TO: SCS CSHB 65(L&C)

Page 18, line 13, following "person":
Insert "or a transaction"

Page 18, line 16, following "person":
Insert "or for a transaction"

Page 18, line 29:
Delete "expressly"

Page 18, line 31, following "person":
Insert "or for a transaction"

Page 19, line 3, following "person":
Insert "or for a transaction"

Page 19, line 22:
Delete "expressly"

Page 19, line 30:
Delete "the third party is a person"
Insert "the disclosure is to a person or for a
transaction"

Page 20, line 3:
Delete "the third party is"
Insert "the disclosure is to a person or for a
transaction"

MS. LIDSTER explained that the amendment addresses concerns voiced by LexisNexis and ChoicePoint Inc. The intention is to allow businesses that are regulated by the Gramm-Leach-Bliley Financial Modernization Act (GLBA) or the Fair Credit Reporting Act (FCRA) to conduct regulated transactions with entities that are not regulated. The phrase "or for a transaction" was inserted on pages 18-20 as listed in the above amendment to clarify that if the entity isn't regulated, the transaction would be. Further concern was that the phrase "expressly authorized" was too limiting. Thus, the term "expressly" was removed from page 18, line 29 and from page 19, line 22.

MS. LIDSTER characterized it as a fair compromise to let either the person or the transaction be regulated by the GLBA or the FCRA.

[2:46:10 PM](#)

CHAIR FRENCH referred to page 18, line 2, paragraph (1), and asked if there's a reason that the word "expressly" wasn't deleted there as well.

MS. LIDSTER replied it was an oversight; she'd appreciate it if the committee would delete that reference as well.

CHAIR FRENCH said the committee would deal with that separately.

SENATOR THERRIAULT asked about inserting the phrase "or transaction" in that location.

CHAIR FRENCH pointed out that the construction of the amendment is to insert the phrase "or transaction" when it refers to the GLBA or the FCRA, but not in paragraph (1) of Sec.45.48.410, Sec.45.48.420, and Sec.45.48.430.

MS. LIDSTER agreed.

CHAIR FRENCH asked the representatives from the affected industry if they'd seen the amendment and cared to comment.

[2:48:02 PM](#)

JON BURTON, Assistant Vice President, State and Government Relations, ChoicePoint Inc., said he knows with certitude that the language that he and others in the industry provided to the sponsor and this committee would work for ChoicePoint. He can't give an opinion as to whether the language in the proposed amendment would alleviate the problem. We will continue to work with the sponsor, he said.

AUDREY ROBINSON, Manager, State and Government Affairs, Reed Elsevier, parent company for LexisNexis, stated that she consulted outside counsel when she learned that an amendment adding the word "transaction" was contemplated. Those GLBA experts indicated that the language suggested in the amendment is outside the scope of the GLBA statute. LexisNexis and others in the industry suggested the "or" amendment. It appropriately says that the use or the purpose is regulated and therefore you fall under the prosecutorial jurisdiction of the FTC. She doesn't know if the proposed amendment would work for LexisNexis.

[2:50:30 PM](#)

JENNIFER FLYNN, Senior Manager, Consumer Data Industries Association (CDIA), said CDIA represents the consumer reporting

industry. There hasn't been time to contact members to know whether or not the amendment will work, but LexisNexis is a member and if it doesn't work for them it won't work for us, she said. Industry did offer language it knows would work, she added.

MURRAY JOHNSTON, Director, State and Government Affairs, Experian said he appreciates the sponsor's efforts, but he needs to have his attorney review the language before he's able to comment on the proposed amendment.

CHAIR FRENCH asked Ms. Hillebrand if she's had a chance to review the amendment.

MS. HILLEBRAND, said she too received the proposed language just today. She continued:

The language in print - not looking at the amendment - requires both the person and the purpose to be the one that is called for in a specific federal law. The amendment would allow it to be the person and the purpose or the transaction and the purpose. That is a softening of the bill, but still ties the idea to that federal law and the [indic.] transaction that's under the federal law. The problem that we had with simply saying 'person or purpose,' which is what the industry had initially proposed, is that that would open the exemption up to businesses and transactions that have never been contemplated to be covered by that federal law.

Just imagine... Sears, Maytag or an local auto mechanic who's asking for your ssn. The purpose of the Gramm-Leach-Bliley Act never intended to apply to those folks with respect to non credit activities and yet one of the purposes under GLBA is resolving customer disputes or inquiries. If you take that out of the financial institution ... trust transaction setting you get kind of a surprising result. You know your car mechanic shouldn't have to ask you for your ssn if you have a complaint about the quality of your car repair.

Similarly Gramm-Leach-Bliley has a purpose for use by self-regulatory agencies. That's a known thing in the financial area, but outside the financial area if it's just a purpose that's permitted, that could be the direct marketing association, which are exactly the

folks who we might be worried are using ssns a little too much.

And finally, Gramm- Leach-Bliley and the Fair Credit Reporting Act both have a consent exception. And, again, just putting in the paperwork outside this natural context could be troubling. And that's why we have been very pleased that the sponsor has not gone to a "or purposes" approach. This language does soften the bill for industry without, we think, decimating it.

CHAIR FRENCH asked Mr. Sniffen to comment.

[2:54:01 PM](#)

MR. SNIFFEN said he agrees with Ms. Hillebrand that the industry-suggested "or" language would broaden the scope of the act beyond what the sponsor intended. He hasn't had the opportunity to think through the transaction language in the proposed amendment, but it may work for the industry.

CHAIR FRENCH agreed with Ms. Hillebrand that the amendment softens the bill, but the language suggested by industry goes too far toward gutting the bill.

[2:55:34 PM](#)

SENATOR THERRIAULT referred to Sec.45.48.410, paragraph (5), and questioned whether anyone would be excluded from asking for a consumer's social security number for the purpose of a business transaction.

MS. LIDSTER replied the exceptions were added as important consumer protections and to continue to allow business to work. It probably goes back to who is doing the background check, she said.

CHAIR FRENCH asked, as a landlord, if he would be able to continue to ask for social security numbers to do credit checks.

MS. LIDSTER replied there is an exception.

CHAIR FRENCH removed his objection and finding no further objection, announced that Amendment 4 is adopted.

CHAIR FRENCH said the bill will be carried over so it will be open for more discussion on that point.

[2:58:18 PM](#)

CHAIR FRENCH moved Amendment 5, 25-LS0311\T.7, Bannister, and objected for discussion purposes.

A M E N D M E N T 5

OFFERED IN THE SENATE
TO: SCS CSHB 65(L&C)

Page 18, line 2, following "by":
Insert "a"

Page 18, line 29, following "by":
Insert "a"

Page 19, line 22, following "by":
Insert "a"

MS. LIDSTER asked him to withdraw the amendment because it needs further clarification.

CHAIR FRENCH removed his objection and withdrew Amendment 5.

[2:59:35 PM](#)

CHAIR FRENCH moved Amendment 6, 25LS0311\T.8, Bannister, and objected for discussion purposes.

A M E N D M E N T 6

OFFERED IN THE SENATE
TO: SCS CSHB 65(L&C)

Page 10, line 19, following "three":
Insert "business"

MS. LIDSTER explained that this clarifies that a security freeze would be lifted within three business days after receiving a request.

[3:00:19 PM](#)

CHAIR FRENCH removed his objection and finding no further objection, announced that Amendment 6 is adopted.

CHAIR FRENCH moved Amendment 7 and objected for discussion purposes.

AMENDMENT 7

Page 18, line 2, following "is":
Delete "expressly"

SENATOR WIELECHOWSKI asked to hear from Ms. Hillebrand.

MS. HILLEBRAND said it's a conforming change in light of the policy choices that have been made.

CHAIR FRENCH removed his objection and finding no further objection, announced that Amendment 7 is adopted.

CHAIR FRENCH announced that he would hold HB 65 until the next hearing. At that time the issue of the second half of the sentence on page 2, line 19, will be addresses. Also, it will provide industry several days to review the changes that have been made to Sec.45.48.410, Sec.45.48.420 and Sec.45.48.430.

There being no further business to come before the committee, Chair French adjourned the meeting at [3:02:21 PM](#).