



FCRA regulates law enforcement access to consumer report information.[13] The FBI has concluded that information it buys from ChoicePoint is not subject to the FCRA.[14] In effect, the FBI has circumvented the FCRA by purchasing data from AutoTrackXP -- data that is often identical to what appears in a credit report from one of the "big three" agencies. Why would law enforcement agencies continue to comply with fair procedures in the FCRA for access to consumer data when they can get unaccountable, open-door access to the same information at ChoicePoint?

The use of these data products by law enforcement officials, government agencies, private investigators, and others raise the same concerns that prompted Congress to pass the FCRA. Errors in reports provided by ChoicePoint and similar companies can find their way into other databases, resulting in the potential for improper arrest and even imprisonment. People have been wrongly arrested and jailed due to errors in law enforcement databases.[15] Since information often circulates between law enforcement records and commercial databases, erroneous information in a database such as AutoTrackXP can make its way into a series of other databases, with profoundly harmful effects on people's lives. For example, consider the following incident:

[A] Maryland woman wrongly arrested for a burglary was not cleared from the state's criminal databases. Her name and SSN also migrated to a Baltimore County database relating to child protective services cases. She was fired from her job as a substitute teacher, and only after she could establish that the information was in error was she rehired. When she later left that job to run a day care center for the U.S. military, she was subject to questioning about the erroneous arrest. Later on, when employed as a child care director at a YMCA, she was terminated when her arrest record surfaced in a background clearance check. Since she could not have the error expunged in sufficient time, the job was given to another person. Only after several years was the error finally cleared from the public records.[16]

Finally, we note that under the self-regulatory scheme erected by the now defunct Individual Reference Services Group, commercial data brokers choose who is eligible to buy personal information. This is a subtle but important deviation from the Fair Credit Reporting Act's approach, which tends to approve record disclosure based on the use of the information, rather than the identity of the purchaser. The importance of this difference becomes clear when it is understood that private investigators, major buyers of personal information, are not licensed in all fifty states, and in some states that require licensure, it is a pro forma process.[17] As a result, ChoicePoint and other information brokers can create ties with marginal businesses or private investigators with dubious backgrounds. Based on their status of being a private investigator, a paralegal, or a law enforcement agent, ChoicePoint's customers can pull information on almost anyone without having to declare their legal justification or entitlement to the data.

We encourage the Commission to examine access to commercial data broker information in light of the Amy Boyer case, where a Florida information broker sold data to the man who stalked and killed Amy Boyer.[18] If the sale of Ms. Boyer's Social Security Number and other information to a complete stranger were conditioned upon one of the FCRA's permissible uses of data, perhaps she would be alive today. The FCRA's reasonable limitations on the use of data, if applied to this sector of data brokers, could protect individuals from unwarranted access to and sale of personal information.

Again, we urge the Commission to engage in a serious inquiry on the status of data brokers' products. We believe that some of these products may be "consumer reports" for purposes of the FCRA, thus subjecting both the seller and the buyer to regulation under the Act. We also think it incumbent upon the Commission to analyze whether the sale of these new data products circumvents the FCRA, giving businesses, private investigators, and law enforcement access to data that previously had been subjected to Fair Information Practices.

We look forward to hearing from you on this matter, and please contact us if we can provide more information.

Sincerely,

Chris Jay Hoofnagle
Associate Director
Electronic Privacy Information Center

Daniel J. Solove*
Associate Professor
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*Title and affiliation listed for identification purposes only.

[1] See EPIC ChoicePoint Page, available at <http://www.epic.org/privacy/choicepoint/>. For more information about ChoicePoint, see Robert O'Harrow, *No Place to Hide: Behind the Scenes of Our Emerging Surveillance Society* (Free Press Jan. 2005).

[2] Duane D. Stanford, *All our lives are on file for sale*, Atlanta J. Const., Mar. 21, 2004 at 1A.

[3] *Id.*

[4] Daniel J. Solove, *The Digital Person, Technology and Privacy in the Information Age* 169 (NYU 2004).

[5] Robert Ellis Smith, *Ben Franklin's Web Site, Privacy and Security from Plymouth Rock to the Internet* 316-318 (Privacy Journal 2000).

[6] *Id.*

[7] Solove, *Digital Person*, 170.

[8] See also, Chris Jay Hoofnagle, *Big Brother's Little Helpers: How ChoicePoint and Other Commercial Data Brokers Collect and Package Your Data for Law Enforcement*, 29 N.C.J. Int'l L. & Com. Reg. 595 (Summer 2004).

[9] ChoicePoint, *AutoTrackXP and ChoicePoint Online*, http://www.choicepoint.com/industry/retail/public_chi_1.html.

[10] ChoicePoint, *Customer Identification Programs*, <http://www.choicepoint.com/business/financial/patriotact.html>.

[11] See Appendix.

[12] 245 F.3d 809 (D.C. Cir. 2001), *cert. denied*, 536 U.S. 915 (2002); *Bakker v. McKinnon*, 152 F.3d 1007, 1012 (8th Cir. 1998) ("even if report is used or expected to be used for non-consumer purpose, it may still fall within definition of consumer report if it contains information that was originally collected by consumer reporting agency with expectation that it would be used for consumer purpose"); *Ippolito v. WNS, Inc.*, 864 F.2d 440, 453 (7th Cir. 1988) ("even if a report is used or expected to be used for a non-consumer purpose, it may still fall within the definition of a consumer report if it contains information that was originally collected by a consumer reporting agency with the expectation that it would be used for a consumer purpose"); *Rice v. Montgomery Ward & Co.*, 450 F. Supp. 668 (M.D.N.C. 1978).

[13] Law enforcement access to "credit headers" or information from a full report is subject to substantive and procedural protections. See, e.g., 15 U.S.C. § 1681b(a)(1).

[14] Memorandum from Office of the General Counsel, National Security Law Unit, FBI, to National Security, FBI (Sept. 17, 2001) (document obtained from the FBI), available at <http://epic.org/privacy/choicepoint/cpfbia.pdf>.

[15] Solove, *Digital Person*, 109-110.

[16] Solove, *Digital Person*, *supra*, at 46-47 (citing Eugene L. Meyer, "Md. Woman Caught in Wrong Net; Data Errors Link Her to Probes, Cost 3 Jobs," *Wash. Post*, Dec. 15, 1997, at C1). Another example includes the case of Scott Lewis, an innocent person who was labeled a criminal because of an administrative error. After he was able to fix the error, information brokers continued to circulate erroneous conviction information. Beth Givers, *Identity Theft: The Growing Problem of Wrongful Criminal Records*, Jun. 1, 2000, <http://www.privacyrights.org/ar/wcr.htm>.

[17] "Some States have few requirements [for private investigator licensure], and 6 States—Alabama, Alaska, Colorado, Idaho, Mississippi, and South Dakota—have no statewide licensing requirements while others have stringent regulations." U.S. Department of Labor, Bureau of Justice Statistics, *Private Detectives and Investigators*, Mar. 21, 2004, available at <http://www.bls.gov/oco/ocos157.htm>.

[18] *Remsburg v. Docusearch, Inc.* 149 N.H. 148 (N.H. 2003). More information about the Amy Boyer case is online at <http://epic.org/privacy/boyer/>.

Appendix

I. ChoicePoint

ChoicePoint,[1] one of the largest data aggregation companies, became independent from Equifax, a leading U.S. credit rating agency, in 1997.[2] ChoicePoint has bought more than 40 companies and competitors, and obtains 40,000 new public records daily to insert into its database of more than 19 billion records.[3] Its business and government services division offers through its AutoTrackXP product identity verification, property records, bankruptcy records, licenses, liens, judgments, and other records to local, state and federal law enforcement,[4] including the Drug Enforcement Administration and the Federal Bureau of Investigation.[5] It also advertises the AutoTrackXP product as a solution for financial services anti-fraud and anti-money laundering compliance.[6]

ChoicePoint's roots are in information services to the insurance sector. The company stated in its initial Securities and Exchange Commission filing that:

ChoicePoint's operations have historically consisted of database information and inspection and investigative services supplied primarily to the insurance industry. ChoicePoint believes it can enhance future growth and profitability by offering a broader range of risk assessment services, fraud management information and technology solutions to clients outside of the insurance industry. Although Equifax believes that significant growth opportunities exist for ChoicePoint's products and services, it anticipates that marketing and promotion of these services will be necessary. The public perceives, however, that credit reporting services and the more privacy sensitive services offered by ChoicePoint should not be available from a single provider.[7]

Since its spinoff from Equifax, ChoicePoint has acquired a number of information collection and processing companies.[8] As a provider of personal information to the insurance sector, from its inception, ChoicePoint's activities have been subject to the FCRA.[9]

II. ChoicePoint's FCRA Business Activities

ChoicePoint sells a number of information products in the employment screening, tenant screening, and personal insurance areas. Many of these information products are FCRA databases and require both ChoicePoint and the company's clients to comply with the Act. This section summarizes ChoicePoint's FCRA employment screening, tenant screening, and personal insurance products. The next section turns to AutoTrackXP and "Customer Identification Programs," ChoicePoint's non-FCRA data products that are similar to the company's FCRA employment, tenant, and insurance screening products.

A. ChoicePoint's "CP Online" Product

On its website, ChoicePoint markets a pre-employment screening service named "CP Online." The company claims that that product is FCRA-compliant:

ChoicePoint Online is a comprehensive Web-based screening interface designed to help employers meet their pre-employment screening needs regarding background verification and drug testing administration. ChoicePoint Online is FCRA-compliant and offers easy-to-use data entry screens, duplicate request notification and alerts for possible criminal records. Using ChoicePoint Online's interactive ordering system, flexible reporting options, process monitoring and online billing, users can gain valuable information to help make better decisions and employ more efficient hiring practices.[10]

...* FCRA Summary of Consumer Rights attached to all decisional reports

ChoicePoint lists the following databases as being available for pre-employment search through the CPOne product:

- Stanton® Assessments
- State Law Reference Library
- National Criminal File
- Driver Qualification File
- Criminal Background Checks
- Identity Verification
- MVRs
- Credit History
- Employment Verification
- Education Verification
- Military History
- Worker's Compensation
- License, Credentials and Certification Verification
- Business or Personal Reference Verification[11]

B. ChoicePoint's "National Criminal File" Product

On its website, ChoicePoint markets a pre-employment screening service named "National Criminal File." The company claims that that product is FCRA-compliant:

ChoicePoint National Criminal File is a comprehensive search of multiple criminal record sources, including fugitive file, state and county criminal record repositories, ChoicePoint proprietary criminal record information, prison, parole and release files from state Department of Corrections, Administrative Office of Courts and other state agencies.

Key Features & Benefits

- * Access to more than 100 million criminal conviction records across all 50 states
- * National reach at an economically feasible price
- * FCRA Compliant...[12]

C. ChoicePoint's "Resident Data" Screening Product

On its website, ChoicePoint markets a tenant screening service named "Resident Data." The company claims that that product is FCRA-compliant:

Resident Data is an industry leader in apartment resident screening and debt collections. Our mission is to maximize customer profitability by managing resident profile risk, collecting maximum payments from residents who default, and creating an environment of resident accountability.

Our integrated screening, skip watch and collections solutions enable apartment owners and managers to better direct their properties by providing flexible solutions that adapt to the individual needs of the community.

Resident Data helps reduce liability by improving compliance with FCRA and Fair Housing requirements.[13]

ChoicePoint lists the following data elements as being available for tenant screening through the "Resident Data" product:

Access to Criminal, Registered Sex Offender and Eviction Databases.

[...]

- * Online access to more than 77 million criminal records, State and county criminal record repositories.

- * 39 States of Registered Sex Offender Records.

- * FBI Terrorism Watch List - Including FBI Most Wanted list and FBI Terrorist database list.

- * Proprietary records from ChoicePoint's other screening business results.

- * Offender and offense descriptions.

[...]

National Eviction Search

ChoicePoint has more than 10 million current records from 45 states. The data includes initial filings, dispossessory warrants and property actions. Resident Data searches every state where the applicant has a prior address as part of its search, not just the state where the applicant is applying.

[...]

Unit Application Analysis

For roommates or multiple applicants, the Resident Data system evaluates all applicants on a per-unit basis and presents a recommendation for the group. Individual screening outcomes are also noted on the report.

[...]

Occupant Processing

Resident Data also offers occupant screening to protect your property from potential problem residents who are not financially responsible for a lease. We can provide legally compliant screening services on potential occupants without initiating a credit check.

[...]

Maximum Evaluation of the Credit Report

The Resident Data review of the credit report includes fraud alerts, SafeScan warnings for possible Social Security Number problems, landlord or utility debt, address matching and full review of payment performance.[14]

D. ChoicePoint's CLUE Personal Auto Product

On its website, ChoicePoint markets a personal insurance screening service named "CLUE Personal Auto:"

C.L.U.E. (Comprehensive Loss Underwriting Exchange) is a claim history information exchange that enables insurance companies to access prior claim information in the underwriting and rating process. C.L.U.E. Personal Auto reports contain up to five years of personal automobile claims matching the search criteria submitted by the inquiring insurance company. Data provided in C.L.U.E. reports includes policy information such as name, date of birth and policy number; claim information such as date of loss, type of loss and amounts paid; and vehicle information.

More than 95 percent of insurers writing automobile coverage provide claims data to the C.L.U.E. Personal Auto database. By providing immediate interactive information, C.L.U.E. Personal Auto helps insurers and agents make immediate business decisions.[15]

The data elements in the CLUE Personal Auto report include: names of other drivers possible associated with the person applying for insurance, claims information, vehicle descriptions, and vehicle ownership. [16]

E. ChoicePoint's "Motor Vehicle Records" Product

On its website, ChoicePoint markets a personal insurance screening service named "Motor Vehicle Records:"

ChoicePoint provides driving records, including standard violation codes, from all 50 states and three Canadian provinces in an easy-to-read standardized format. Online access to driving records is available for 40 states and two provinces, and ChoicePoint continues to add to the list of states with online access.[17]

The data elements in the Motor Vehicle Records report include: contact information, driver license

number, physical descriptions of drivers, and additional drivers that may be associated with the data subject.[18]

F. ChoicePoint's "National Credit File" Product

On its website, ChoicePoint markets a product named "National Credit File:"

ChoicePoint's National Credit File provides insurance carriers with online consumer credit reports obtained from the three major credit bureaus. Carriers then consider the financial history of the applicant and assess the applicant's risk for quoting, underwriting and renewal purposes.[19]

The data elements in the National Credit File report include: contact information, bankruptcies, public records, liens, collection items, employment information, and tradelines.[20]

III. ChoicePoint's Apparent Non-FCRA Products

In addition to the FCRA products described above, ChoicePoint markets two additional, popular data products to law enforcement, financial services companies, private investigators, law firms, and other businesses. These products are known as "AutoTrackXP" and "Customer Identification Programs."

A. ChoicePoint's "AutoTrackXP" Product

On its website, ChoicePoint markets "AutoTrackXP", which is described as:

AutoTrackXP and ChoicePoint Online provide Internet access to more than 17 billion current and historical records on individuals and businesses, and allow users to browse through those records instantly. With as little information as a name or Social Security number, both products cross-reference public and proprietary records including identity verification information, relatives and associates, corporate information, real property records and deed transfers. In addition, access is available to a staff of field researchers who perform county, state and federal courthouse searches.[21]

The advertised data elements in AutoTrackXP include:

Discovery PLUS!™ - through ChoicePoint Online

- * Compiles a comprehensive report on an individual including current and previous addresses, relatives, assets, corporate involvement and derogatory information.

- * Returns list where no matches were found.

- * Also available Discovery PLUS! with Vehicle Identification Number.

Info:PROBE™ - through ChoicePoint Online

- * Checks millions of records simultaneously and provides a "shopping list" of databases, which contains records that match the search criteria. A client can then choose which databases to view.

[...]

National Comprehensive Report – through AutoTrackXP

- * Searches national and state databases for a summary of assets, driver licenses, professional licenses, real property, vehicles, and more.
- * Each report offers the ability to add associates to the report, which include relatives, others linked to the same addresses as the subject and neighbors.[22]

A sample AutoTrackXP report on the ChoicePoint web site shows that it contains Social Security Numbers; driver license numbers; address history; phone numbers; property ownership and transfer records; vehicle, boat, and plane registrations; UCC filings; financial information such as bankruptcies, liens, and judgments; professional licenses; business affiliations; "other people who have used the same address of the subject," "possible licensed drivers at the subject's address," and information about the data subject's relatives and neighbors.[23] The AutoTrackXP report is very similar in content to a standard credit report issued by one of the "big three" credit reporting agencies.

However, there is no indication that AutoTrackXP is sold within the FCRA's procedural and substantive safeguards. ChoicePoint seems to have treated the data product outside the FCRA and subject only to the now-defunct Individual Reference Service Group self-regulatory principles. This means that anyone with a ChoicePoint account can buy an AutoTrackXP account.

It appears that both ChoicePoint and federal law enforcement share the view that AutoTrackXP is outside the FCRA's protections. In a document obtained by EPIC under the Freedom of Information Act from the Federal Bureau of Investigation, the agency concluded that ChoicePoint's products are not covered by the FCRA: "In this instance, none of the information which the FBI would seek to review has been collected by ChoicePoint for any of the [FCRA] purposes." [24]

B. ChoicePoint's Customer Identification Programs

On its website, ChoicePoint offers "Customer Identification Programs," described as a PATRIOT Act compliance mechanism with many data elements similar to AutoTrackXP:

Identification Solutions

Basic identification solutions ensure that name, address, date of birth and Social Security numbers match. This includes a check against required government sanctions lists. Enhanced due diligence solutions include telephone numbers, historical information, criminal records, key relationships, international information and comprehensive individual and business reports.

[...]

You'll benefit from our unique offerings, including:

- * Access to more than 17 billion public records and three major credit bureaus.
- * An extensive proprietary identity database.
- * National real property information.
- * Nationwide corporate and business information.
- * A vast database of drivers' license data and motor vehicle records.

* National criminal history database.

* Access to the Office of Foreign Asset Control and other government sanctions and enforcement actions, including international information.[25]

[1] See EPIC ChoicePoint Page, available at <http://www.epic.org/privacy/choicepoint/>. For more information about ChoicePoint, see Robert O'Harrow, *No Place to Hide: Behind the Scenes of Our Emerging Surveillance Society* (Free Press Jan. 2005).

[2] Duane D. Stanford, *All our lives are on file for sale*, *Atlanta J. Const.*, Mar. 21, 2004 at 1A.

[3] *Id.*

[4] ChoicePoint, AutoTrackXP and ChoicePoint Online, http://www.choicepoint.com/industry/government/public_le_1.html (accessed Oct. 25, 2004).

[5] Chris Jay Hoofnagle, *Big Brother's Little Helpers: How ChoicePoint and Other Commercial Data Brokers Collect and Package Your Data for Law Enforcement*, 29 N.C.J. Int'l L. & Com. Reg. 595 (Summer 2004).

[6] ChoicePoint, All Financial Solutions, <http://www.choicepoint.com/business/financial/allfinan.html> (accessed Oct. 25, 2004).

[7] ChoicePoint Corporation, SEC Registration of securities [Section 12(b)], Jun. 9, 1997.

[8] These include: National Data Retrieval, Inc., a provider of public records information; List Source, Inc., d/b/a Kramer Lead Marketing Group, a marketing company in the life and health insurance and financial services markets; Mortgage Asset Research Institute, Inc., a mortgage fraud monitoring company; Identico Systems, LLC, a customer identity verification company; Templar Corporation; insuranceDecisions, Inc., an insurance industry claims administration company; Bridger Systems, Inc., a USA PATRIOT Act compliance company; CITI NETWORK, Inc. d/b/a Applicant Screening and Processing, a tenant screening company; TML Information Services, Inc., a provider of motor vehicle reports. ChoicePoint Corporation, SEC Form 10-K, Mar. 5, 2004. With respect to TML Information Service, ChoicePoint purchased "certain assets" of the company. Drug Free, Inc., a drug testing company; National Drug Testing, Inc., a drug testing company; Application Profiles, Inc., a background check company; Informus Corporation; a company enabling ChoicePoint to offer products online; Tyler-McLennon, Inc., a background screening company; ChoicePoint Direct Inc., formerly known as Customer Development Corporation, a database marketing company; EquiSearch Services, Inc.; DATEQ Information Network, Inc., an insurance underwriting services company; Washington Document Service, Inc., a court record retrieval service; DataTracks Technology, Inc., a public record information company; DataMart, Inc., a database software company; Statewide Data Services, Inc.; NSA Resources, Inc., a drug testing company; DBT Online, Inc., a public record services provider; RRS Police Records Management, Inc., a provider of police reports and related services; VIS'N Service Corporation; Cat Data Group, LLC; Drug Free Consortium, a drug testing company; BTi Employee Screening Services, Inc., an employee pre-screening services company; ABI Consulting Inc., a drug screening company; Insurity Solutions, Inc., an insurance rating company; National Medical Review Offices, Inc.; Bode Technology Group, Inc., a DNA identification company; Marketing Information & Technology, Inc., a direct marketing company; Pinkerton's, Inc., a preemployment screening company; Total eData Corporation, an e-mail database company; L&S Report Service, Inc., a provider of police records; Resident Data, Inc., a residential screening services provider; Vital Chek Network, Inc., a provider of vital records; Accident Report Services, Inc., a provider of police records. ChoicePoint Corporation, SEC Form 10-K, Mar. 26, 2003.

Programming Resources Company, insurance software company; Professional Test Administrators, Inc., a drug testing company; CDB Infotek, a seller of public records; Medical Information Network, LLC, an online physician verification service. ChoicePoint Corporation, SEC Form 10-K, Feb. 16, 2001. Rapsheets.com, an online provider of criminal records data. *ChoicePoint acquired Rapsheets, a provider of online criminal records data*, Information Today, Inc., Sept. 1, 2004.

[9] "Certain data and services provided by ChoicePoint are subject to regulation by the Federal Trade Commission under the Federal Fair Credit Reporting Act, and to a lesser extent, by various other federal, state and local regulatory authorities. Compliance with existing federal, state and local laws and regulations has not had, and is not anticipated to have, a material adverse effect on the results of operations or financial condition of ChoicePoint. Nonetheless, federal, state and local regulations in the United States designed to protect the public from the misutilization of personal information in the marketplace may increasingly affect the operations of ChoicePoint, which could result in substantial regulatory compliance and litigation expense, adverse publicity and a loss of revenue. *Id.*

[10] ChoicePoint, CP Online, http://www.choicepoint.com/business/pre_employ/pre_employ_2.html.

[11] *Id.* ChoicePoint offers similar information for employment purposes under the product names "ScreenNow," "Screening Network," and "Secure Point."

[12] ChoicePoint, National Criminal File, http://www.choicepoint.com/business/pre_employ/pre_employ_4_1.html. In November 2001, ChoicePoint introduced the National Criminal File database, one that then contained, "more than 20 million conviction records from jurisdictions around the country." David J. Cook, then ChoicePoint vice president, was quoted saying that the National Criminal File was created for employment screening purposes: "We have two large clients who want to run a large national criminal search on every one of their employees." Lisa Guernsey, *What Did You DO Before the War?*, New York Times, Nov. 22, 2001.

[13] ChoicePoint, Resident Data, http://www.choicepoint.com/business/public/cbi_5.html.

[14] ChoicePoint, Screening Unique Services and Features, http://www.residentdata.com/services/screening_features.asp.

[15] ChoicePoint, CLUE Personal Auto, http://www.choicepoint.com/business/pc_ins/us_1.html. ChoicePoint markets a similar product for other property as "CLUE Personal Property."

[16] ChoicePoint, CLUE Personal Auto Report, http://www.choicepoint.com/sample_rpts/CLUEAutoUnderwriter.pdf.

[17] ChoicePoint, Motor Vehicle Records, http://www.choicepoint.com/business/pc_ins/us_5.html.

[18] ChoicePoint, Motor Vehicle Records Report, http://www.choicepoint.com/sample_rpts/mvrhowtoread.pdf.

[19] ChoicePoint, National Credit File, http://www.choicepoint.com/business/pc_ins/us_9.html.

[20] ChoicePoint, National Credit File Report, http://www.choicepoint.com/sample_rpts/NCF.pdf.

[21] ChoicePoint, AutoTrackXP and ChoicePoint Online, http://www.choicepoint.com/industry/retail/public_cbi_1.html.

[22] *Id.*

[23] ChoicePoint, AutoTrackXP Report, http://www.choicepoint.com/sample_rpts/AutoTrackXP.pdf.

[24] Memorandum from Office of the General Counsel, National Security Law Unit, FBI, to National Security, FBI (Sept. 17, 2001) (document obtained from the FBI), available at <http://epic.org/privacy/choicepoint/cpfbia.pdf>

[25] ChoicePoint, Customer Identification Programs, <http://www.choicepoint.com/business/financial/fcratriotact.html>.

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Attachment B

"ChoicePoint—An Ignoble Corporate History,"
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Identity Theft Happens Mainly in America

Identity theft is largely an American phenomenon. There are reasons for that. Other nations don't rely on an identifying number – like a number to keep track of pension accounts or government benefits – for other purposes, like identifying consumers in credit reports.

Since the early 1990s credit bureaus have been collecting Social Security numbers and relying on the numbers to confirm a match when a lender requests a credit report on an applicant. By the same token, credit bureaus usually ask a consumer who wants to see his or her own cre-

dit report, as permitted by law, to provide a Social Security number to confirm his or her identity. The Federal Trade Commission, which regulates credit bureaus, actually encouraged this in the 1990s.

Strangers can get Social Security numbers from payroll records or buy them from Internet sites.

Thus, it's not hard to see why theft of identity is easy in the U.S. A stranger need only get a Social Security number to match a name and then ask a credit bureau to provide a copy of "his" (Continued on page four)

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1974 Two and a half years after the Fair Credit Reporting Act is enacted, the Federal Trade Commission accuses Retail Credit Co. of violating it. Its consumer investigative operation misrepresents itself to consumers and to sources, continues to report obsolete adverse information on consumers, pressures its staff to produce negative information, hassles consumers who seek access to their own files, and fails to reinvestigate the accuracy of information challenged by consumers. All of this violates the FCRA.

1976 The credit-bureau side of Retail Credit Co.'s business also faces a cease-and-desist order by the FTC and a 1971 federal court anti-trust injunction, as well as consumer lawsuits. As a consequence, the company hires a consultant, who recommends a name change to Equifax. The consultant says that the new name connotes fairness and factual accuracy.

1980 The consumer investigative side of Equifax, which compiles narrative reports on consumers for employers and insurance companies, now controls more than 75 percent of the market.

1982 After a federal court upheld the FTC charges of FCRA violations and ordered Equifax to comply with a cease-and-desist order, the FTC finds that instructions to employees have not changed. It orders the company to circulate the court's order among its employees.

1989 Equifax claims great success with its Comprehensive Loss Underwriting Exchange (CLUE), which indexes millions of past auto- and property-insurance claims so that 280 insurance companies may query the system when a person applies for coverage. There is no way for an individual, in spite of the Fair Credit Reporting Act, to check the accuracy of a CLUE record.

1991 One of several consumer lawsuits against the company finds that Equifax had not complied with the 1982 FTC directive. "Court order? What order?" said one employee questioned in a lawsuit.

1992 The New York City Department of Consumer Affairs condemns CLUE, saying there is no way to determine the accuracy of its vast files. The Data Protection Registrar in the United Kingdom questions its fairness.

1995 The Federal Trade Commission *again* cites the consumer investigative arm of Equifax for violations, including failure to reinvestigate complaints of inaccuracy and ignoring consumers' documenta- (Continued on page three)

ChoicePoint – An Ignoble Corporate History

(Continued from page one)

inaccuracies. Equifax did not challenge the FTC findings. Under a settlement with the FTC, the company is ordered to discontinue these violations and make periodic reports to the FTC showing its progress improving its accuracy rate. Under the order, Equifax is to cease providing credit reports to a discredited information broker in California named CDB Infotek.

1996 CDB Infotek advertises in e-mails that it will sell information at the top of a credit report – “header information” like Social Security number, date of birth, phone number, and “a/k/a’s.” It offers access to Social Security account information, the change-of-address lists of the Postal Service, lists of registered voters (in violation of state laws in California and elsewhere), and data on personal assets. It sells criminal and civil-court records, demographics of a target’s closest neighbors, California driving records, employment reports, and much more. In 1992 CDB had been cited by the FTC for major violations of the credit-reporting law. CDB did not challenge the FTC findings.

1996 Seven months after CDB’s ad appears, Equifax purchases 70 percent of CDB Infotek and folds it into its Insurance and Special Services unit.

1997 An Equifax shareholder, in a formal demand for due diligence by the parent company, cites “law-breaking, fraud and unethical conduct” by CDB.

1997 Alarmed by its negative reputation with the acquisition of Infotek, its FTC cease-and-desist orders, and consumer lawsuits, Equifax spins off its Insurance and Special Services unit and calls it ChoicePoint. The new unit absorbs CDB’s files. It also takes a driver and motor-vehicle, divorce, marriage, corporate, property-ownership, and other data of questionable reliability owned by a company called Database Technologies, Inc., in Boca Raton, Fla. ChoicePoint’s independence is questionable. The chair of Equifax, Inc., during the 1990s is chair of the executive committee of ChoicePoint’s board of directors. ChoicePoint’s new president was executive vice president of Equifax.

1998 ChoicePoint jettisons the rogue founder of CDB Infotek, former private investigator Rick Rozar, who says that he will use his \$95 million in capital gains to work with organizations seeking to locate missing children. He donates \$100,000 to the Republican National Committee. In October, Rozar, 44, dies in a fall from the roof of his house. He was removing a satellite TV dish.

1999 The FBI and Drug Enforcement Administration suspend contracts with Database Technologies (DBT Online), because of evidence that the company’s founder, Hank Asher, had ties to drug smuggling from the Bahamas in the 1980s. (Asher later with a company called Seisint in Boca Raton develops anti-terrorism software called Matrix, which purports to mine hundreds of private and public databases with personal information. In 2003, with the help of Florida Gov. Jeb Bush, Asher will provide a show-and-tell in the White House for top Bush Administration officials and they are impressed.)

2000 Despite its record, federal and state agencies continue to enter into contracts with ChoicePoint. But



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PRIVACY JOURNAL is published monthly, reporting on legislation, legal trends, new technology, and public attitudes affecting the confidentiality of personal information. \$125 a year, \$168 overseas. PRIVACY JOURNAL is available by postal mail, or by electronic mail, or in selected news and bookstores in the U.S. Back issues are available by mail in hard copy or in electronic form, by e-mail, or at our Web site. MasterCard, Visa, American Express, and Discover credit cards are accepted for payment. CIRCULATION MANAGER: Shauna Van Dongen.

PRIVACY JOURNAL publishes: *Compilation of State and Federal Privacy Laws*, a book describing more than 1000 state and federal laws on confidentiality (\$31, 2004). *Ben Franklin's Web Site*, a 407-page history of privacy in the U.S. reprinted in 2004 (\$17.50). *War Stories IV*, accounts of individuals victimized by invasions of privacy, with the source of each story (\$17.50, 2004). *A National ID Card, A License to Live*, a 46-page special report (\$18.50, 2002). *The Law of Privacy Explained*, a 57-page legal guide to the current case law (\$14.50, 2004). *Directory of Privacy Professionals*, listing 600 individuals and groups with knowledge in the field, including e-mail addresses (\$18.50, 2003). *Our Vanishing Privacy*, a 132-page paperback published in 1993 with essays on consumer issues (\$16.95). *Social Security Numbers: Uses and Abuses* (\$14.95, 2001). *Index from 1994 to October 2004* (\$14.50). Our Web site includes the capability to download the texts of our reference books.

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the Pennsylvania Department of Transportation terminates a 10-year agreement that granted ChoicePoint access to drivers' records and specified that the data could not be transmitted via the Internet. The company violated that provision. It was advertising Pennsylvania driver records on-line and selling them to persons not entitled to them under the agreement with the state. ChoicePoint pays a \$1.4 million fine.

2000 Two of ChoicePoint's senior managers donate \$4,000 to a Republican fund launched by Sen. Richard Shelby, R-Ala., to support GOP candidates. Shelby is chair of the Senate committee overseeing the Fair Credit Reporting Act.

2000 ChoicePoint's stock increases by 50 percent in value; its earnings surpass \$400 million. It has contracts with the IRS, Health Care Financing Administration, the Secret Service, and the City of New York. It makes its database available to the federally funded National Center for Missing and Exploited Children, Rick Rozar's favored non-profit association.

2000 The Florida Secretary of State hires Database Technologies, now a wholly owned subsidiary of ChoicePoint, to come up with the names of felons in Florida, because felons are forbidden by law from voting in Florida. But the lists include the names of many eligible voters. As a result, nearly 2000 Florida voters, most of them African-Americans, are wrongfully disqualified from voting and 5600 people tagged as likely felons ended up voting anyway.

2001 After just two months in office, the Bush Administration suspends an eleventh-hour Clinton Administration regulation that would deny federal contracts to companies that appear to have violated federal laws repeatedly.

2002 The company vigorously fights for "homeland security" funds from federal and state agencies. It seeks to be the provider of personal information for filtering airline passengers before they may board an airplane without further scrutiny. "ChoicePoint's core competency is verifying and authenticating individuals and their credentials," says Chairman and CEO Derek V. Smith.

2002 ChoicePoint hires a friend of George W. Bush, James Langdon, who raised more than \$100,000 for Bush's campaign in 2000, as its lobbyist in Washington. In a few months the company secures an \$11 million contract with the U.S. Department of Justice to provide access to the company databases.

2005 Because of California's security breach law, the company is forced to reveal that thieves posing as legitimate businesses were able to access profiles that include Social Security numbers, credit histories, criminal records and other sensitive personal information. The company discovered the breach in October 2004. Negative publicity forces the company to make disclosures of the breach to 100,000 persons nationwide. The number of victims may reach 500,000. Some victims have already experienced symptoms of identity theft like changes of address by strangers.

2005 A U.S. Senate committee announces hearings on information brokers, focusing on ChoicePoint.

ID Theft (Continued from page one)

credit report. Or the stranger can apply for credit under the target's name and use the victim's Social Security number to "authenticate" identity. Sometimes the stranger will change the address on the victim's credit account (and use the stolen SSN to "authenticate" identity. Credit bureaus are not required to send a notice to a consumer before activating a change of address, and so they don't do so.

This can't happen, of course, if credit bureaus discontinue using SSNs as a match. Credit bureaus in Europe and Australia do not do so, and so identity theft is virtually non-existent. "Outside the U.S.A., my impression is that *identity theft* is very uncommon (although the U.K. authorities carry on as though there were

some)," Roger Clarke, long-standing privacy expert in Australia, told *PRIVACY JOURNAL*. "There have been only half-a-dozen reported cases in Australia over a period of quite some years."

Clarke, of Xamax Consultancy and Australian National University, monitors identity theft and identity fraud worldwide. In fact, he distinguishes between *identity theft* ("the adoption of an established identity by a second person, polluting the records of that identity with various organizations, typically retailers, finance companies and hence credit bureaus"), and *identity fraud* (the use of manufactured false IDs for immigration, fraud, money laundering, and possibly terrorism).

"There is a very high level of *identity fraud*

Attachment C

**ChoicePoint, "Response to Customer Fraud Litigation,"
February 23, 2005, from the ChoicePoint website,
http://www.choicepoint.com/news/statement_0205_1.html**

NEWS CENTER

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Response to Customer Fraud Litigation

02/23/2005

Like most U.S. businesses, we respond to the specifics of litigation in court proceedings, not the media.

The reality is, ChoicePoint is going to extraordinary lengths to assist people whose identities may have been compromised by the crimes committed against the company and will continue to do so. We have gone far beyond what the California law requires by voluntarily notifying individuals nationwide who may be impacted, by providing free credit reports, and credit monitoring for a year, and by setting up a dedicated support center to help consumers who receive a notification letter.

Additional Information

ChoicePoint is actively engaged with local and federal law enforcement agencies in the continuing investigation of a fraud committed against us, through which a small number of very organized criminals posing as legitimate companies gained access to personal information about consumers. This incident was not a breach of ChoicePoint's network or a "hacking" incident, and did not involve any of ChoicePoint's customer information.

We want you to know we take this criminal activity seriously and are aggressively addressing it.

In addition to assisting law enforcement officials, we are taking voluntary actions at company expense to help affected consumers protect their identity. We want to tell you what we believe occurred and what information was released. We also want to provide you with details about what we are doing to inform and assist consumers that may be affected, and what we are doing to ensure we have reduced the possibility of future unauthorized access to personal information by criminals.

What we know about the crime**What we are doing to inform and protect Consumers****What we are doing to minimize the likelihood of future occurrences****What we know about the crime:**
top

In October 2004, we detected possible signs of fraudulent activities in several small business accounts based in the Los Angeles area. We alerted the Los Angeles County Sheriff's Department and they subsequently confirmed our suspicions and began an investigation.

These criminals were able to pass our customer authentication due diligence processes by using stolen identities to create and



> [How to Check your Credit Report](#)

> [Click here to view the state by-state distribution of consumer notices](#)

produce the documents needed to appear legitimate. As small business customers of ChoicePoint, these fraudsters accessed products that contained basic telephone directory-type data (name and address information) as well as a combination of Social Security numbers and/or driver's license numbers and, at times, abbreviated credit reports. They were also able to obtain other public record information including, but not limited to bankruptcies, liens, and judgments; professional licenses; and real property data.

In late January, we were cleared to begin informing the consumers whose personal information may have been accessed. We then began production of notification letters to approximately 35,000 potentially affected California consumers. Mailing to these consumers was completed last week.

After the start of the California notification process, investigators informed us they believed consumers outside of California may also have been impacted. We immediately began the process of preparing and issuing approximately 110,000 additional letters to consumers in other states that may have also been impacted. We expect to complete these mailings by the end of the week.

We do not know how many of these approximately 145,000 consumers may be actual victims of identity theft but we have been informed by law enforcement officials that they have identified and directly notified approximately 700 consumers nationwide that some part of their identity information has been compromised.

Additionally, a Nigerian citizen last week pled no contest in California state court and was sentenced to 18 months in prison in connection with this incident.

What we are doing to inform and protect Consumers:
top

Our primary focus remains assisting those consumers whose confidential data may have been fraudulently obtained by these criminals.

We expect that all of the approximately 145,000 notices will be mailed by the end of the week.

We have set up a special toll-free number for use by consumers who receive these notices. Our notices urge consumers to check their credit reports for suspicious activity and provide information on how to obtain their credit reports from each of the three credit bureaus via phone, mail, or web.

To be of further assistance we have purchased tri-bureau credit reports and a one-year credit monitoring service at our expense for each individual. Our notification letters also inform consumers how to obtain these services, free of cost to them, via phone or web.

What we are doing to minimize the likelihood of future occurrences:
top

Financial fraud and identity theft are pervasive problems in the economy. While ChoicePoint offers a wide range of tools to help detect fraud, no one - including us - is immune from it.

ChoicePoint has acted quickly to address the circumstances that led to the unauthorized access. We are continually updating our customer credentialing and enrollment processes, on-going

account monitoring analytics and our periodic customer auditing programs to help ensure the integrity of our systems and the information they contain.

We are taking the following additional steps:

- We have asked Mr. Robert McConnell, to serve as our liaison to law enforcement officials and to provide insight for developing additional protections to guard against future fraud. Mr. McConnell, is a retired 28 year veteran of the United States Secret Service. During his last five years with the Secret Service, Mr. McConnell supervised the interagency task force responsible for the investigation of Nigerian Organized Crime.
- We are presently going through a rigorous re-credentialing of broad categories of customer accounts, including small business customers. We have made, and will continue to make, product changes that limit the information these customers are able to obtain before, and after, this re-credentialing is completed. These changes include masking or truncating sensitive personal identifier information (including social security numbers and driver's license numbers). Most of this fraud occurred in our small business public record product segment, representing less than five percent of our annual revenue. All of these customers will be impacted by our data restrictions and re-credentialing efforts.

We have always restricted and controlled access to personal data. What's prompting us to go even further is we now know that organized crime may have hijacked our legitimate data uses. We believe an effective way to protect sensitive data from these highly organized criminals is to re-credential our customers and remove information in those segments where organized crime fraud is likely to occur. We hope others in our industry will do the same.

This unfortunate and regrettable criminal act has instilled in us a determination to lead this fight within the broader information industry as well. We have already begun sharing our experiences, observations and ideas with several of the other major corporations in our industry, and we will seek to lead an industry-wide initiative to develop, adopt, and deploy new measures that will identify and halt identity theft and fraud.

As part of an industry-wide initiative, ChoicePoint is also renewing its call for a national discussion on how to ensure information is used responsibly to ensure the positive benefits of information use are preserved and the illegal uses of data are severely punished. For nearly two years, ChoicePoint has called for a broad national discussion about how to protect personal privacy and society's right to know. We specifically support:

- Independent oversight and increased accountability of data users and providers to help increase consumer confidence
- Increased penalties for the intentional misuse of personal information by businesses and individuals
- Mandatory notification by government and businesses of unauthorized access to personal data

Distribution of Consumer Notices



State	Notice Count
Alabama	1,338
Alaska	251
Arizona	1,730
Arkansas	696
California	34,114
Colorado	4,500
Connecticut	5,952
Delaware	1,072
District of Columbia	338
Florida	10,218
Georgia	2,805
Guam	4
Hawaii	677
Idaho	3,216
Illinois	5,025
Indiana	2,307
Iowa	809
Kansas	1,613
Kentucky	2,130
Louisiana	1,261
Maine	257
Maryland	2,750
Massachusetts	1,122
Michigan	2,318
Minnesota	2,338
Mississippi	1,317
Missouri	1,635
Montana	107
Nebraska	572
Nevada	739
New Hampshire	205
New Jersey	4,793
New Mexico	935
New York	9,370
North Carolina	6,983
North Dakota	137
Ohio	2,680
Oklahoma	795
Oregon	1,947
Pennsylvania	1,864
Puerto Rico	35
Rhode Island	203
South Carolina	2,372
South Dakota	140
Tennessee	1,153
Texas	11,081

Utah	986
Vermont	111
Virgin Islands	2
Virginia	1,494
Washington	3,189
West Virginia	210
Wisconsin	830
Wyoming	54
Total	144,778

Legal / Privacy

Attachment D

**National Conference of State Legislatures,
"2005 Breach of Information Legislation"**



2005 Breach of Information Legislation

Last update: March 7, 2005

In February 2005, ChoicePoint, a corporation that collects and compiles information that includes personal and financial information on millions of consumers, disclosed that it been the victim of a security breach wherein it had sold personal information of almost 145,000 people to a criminal enterprise. The company first disclosed the breach only to California residents, as required by California's Notice of Security Breach law, enacted in 2002. However, the company later disclosed that residents in other states, the District of Columbia and three territories also may have been affected by the ChoicePoint breach (see List of states affected by ChoicePoint).

Since these disclosures, additional states are considering legislation requiring that companies and/or state agencies disclose to consumers security breaches involving personal information. NCSL's Identity Theft Web page has additional information on related legislation.

*Summary: Legislation is being considered in at least 20 states as of March 4, 2005.
(See also 2004, 2003, and 2002 legislation.)*

2005 Legislation

Arizona

S.B. 1114

Requires an entity disposing of records to take reasonable steps to ensure the destruction of personal financial and health information and personal identification numbers that are issued by governmental entities. Directs an entity discovering that personal identifying information has been stolen or improperly obtained, the entity must, within the most expedient time possible and without unreasonable delay: a) transmit notice to the person that there has been a breach of security regarding that person's personal identifying information. b) Provide information to that person regarding steps to be taken to protect against the unauthorized use of personal identifying information. Immunizes the entity from liability if it returned custody and control of the records back to the individual to whom the records pertain. Specifies that this legislation does not apply to the disposal of records by a transfer of the records to another entity. Allows an individual, who believes he or she may be injured by an entity's actions or failure to act, to request that a court stop an entity's actions or failure to act pursuant to this legislation. Permits the court to grant an injunction to stop an entity's actions or failure to act. Authorizes the attorney general to bring a civil action for damages and/or injunctive relief against an entity that fails to comply with this legislation. Specifies that any bank, financial institution, health care organization or other entity subject to and in compliance with certain federal regulations regarding protecting identifying information is in compliance with this legislation. Provides that the rights and remedies of this legislation are in addition to other rights or remedies provided by law. Defines "destroy," "entity," "individual," "personal identifying information" and "record."

California

A.B. 786

Requires the California State University system to provide an employee, upon request, with four hours of time off with pay following a disclosure by the university that there is, or could have been, a breach of security of employee personal information data, as specified.

S.B. 433

Existing law contains two identical provisions of law requiring any person or business that conducts business in California and that owns or licenses computerized data that includes personal information to disclose any breach of the security system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Repeals one of those two identical provisions, thereby making a technical, nonsubstantive change.

S.B. 852

Requires an agency, or a person or business conducting business in California, that possesses any data that includes the personal information of a California resident, to notify the resident of any breach of the security of the data, as specified. The bill also repeals

duplicative provisions of law.

Colorado**S.B. 137**

Permits a consumer to apply or remove a security freeze to his or her consumer/credit report; requires that consumers be notified of the right to place the security freeze; compels a consumer reporting agency to notify the consumer after the credit information was released in violation of the security freeze; and allows consumers, in cases where the security freeze was violated, to pursue civil action and penalties up to \$10,000 for each violation plus damages available under other civil laws. Requires government agencies, corporations, financial institutions and others who own or use personal information to notify consumers when there has been a breach of the security of data.

Georgia**H.B. 638**

Relates to selling and other trade practices, so as to provide definitions; to require investigative consumer reporting agencies to give notice to consumers of certain security breaches; to provide for a standard of care to be exercised by investigative consumer reporting agencies; to provide for rules, regulations, and guidelines; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

H.B. 648

Requires a person or business that conducts business in this state and that owns or licenses computerized data that includes personal information to disclose in specified ways any breach of the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person; to permit notification to be delayed if a law enforcement agency determines that it would impede a criminal investigation; to require a person or business that maintains computerized data that includes personal information owned by another to notify the owner or licensee of the information of any breach of the security of the data; to provide for certain civil actions.

S.B. 230

Relates to selling and other trade practices, so as to provide definitions; requires investigative consumer reporting agencies to give notice to consumers of certain security breaches.

S.B. 245

Relates to business records, so as to require a person or business that conducts business in this state and that owns or licenses computerized data that includes personal information to disclose in specified ways any breach of the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person; permits notification to be delayed if a law enforcement agency determines that it would impede a criminal investigation; requires a person or business that maintains computerized data that includes personal information owned by another to notify the owner or licensee of the information of any breach of security of the data; provides for certain civil actions; defines certain terms; to amends Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state printing and documents, so as to require an agency that owns or licenses computerized data that includes personal information to disclose in specified ways any breach of the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person; permits notification to be delayed if a law enforcement agency determines that it would impede a criminal investigation; requires an agency that maintains computerized data that includes personal information owned by another to notify the owner or licensee of the information of any breach of security of the data; defines certain terms; provides for legislative findings and declarations.

S.B. 251

Relates to selling and other trade practices; requires certain business entities to give notice to consumers of certain security breaches; to provide for causes of actions and damages for unauthorized or improper access of personal information of consumers; to provide for certain criminal penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Idaho**H.B. 555**

Adds to existing law to provide legislative intent relating to the protection of personal information; to provide for disclosure upon breach in the security of personal information by certain agencies, persons and businesses; to provide for delayed notification in the event of certain criminal investigations; to provide for means of notice; to provide an exception; and to provide certain rights and remedies for

breach in the security of personal information

Illinois

H.B. 3743

Creates the Security Breach Notification Act. Requires any person or business conducting business in the State, and that owns or licenses computerized data that includes personal information, to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any person whose unencrypted personal information was, or is reasonably believed to have been acquired by an unauthorized person. Requires any person or business that maintains computerized data that includes personal information that the person or business does not own, to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery of such breach, if the personal information was, or is reasonably believed to have been acquired by an unauthorized person. Provides that notice may be provided to a customer in one of the following ways: (1) written notice; (2) electronic notice; or (3) substitute notice if the person or business demonstrates that the cost of providing notice would exceed \$250,000, or the affected class of persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Provides a private right of action for a violation of the Act.

S.B. 209

Creates the Personal Information Protection Act. Requires each financial institution to provide an annual disclosure statement to all persons for which the financial institution maintains unencrypted personal information concerning measures the financial institution has taken to prevent (i) a breach of the security system and (ii) any unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the financial institution. Requires each financial institution to maintain duplicate records of all computerized data at a back-up site located at least 90 miles from the primary site at which the data is stored. Provides that the effectiveness of the back-up site shall be tested annually and requires the results of that test to be included in the annual disclosure statement.

S.B. 1479

Creates the Identity Theft Notification Act. Requires any data collector that owns or uses personal information in any form that includes personal information concerning an Illinois resident, to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data, without regard for whether the data has been accessed by an unauthorized third party for legal or illegal purposes. Provides that notice may be provided in one of the following ways: (1) written notice; (2) electronic notice; or (3) substitute notice if the person or business demonstrates that the cost of providing notice would exceed \$250,000, or the affected class of persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Provides a private right of action for a violation of the Act.

S.B. 1798

Creates the Personal Information Protection Act. Requires any person, business, or State agency conducting business in the State, and that owns or licenses computerized data that includes vulnerable personal information, to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any person whose unencrypted personal information was, or is reasonably believed to have been acquired by an unauthorized person. Requires any person, business, or State agency that maintains computerized data that includes vulnerable personal information that the person, business, or State agency does not own, to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the vulnerable personal information was, or is reasonably believed to have been acquired by an unauthorized person. Provides that notice may be provided to a customer in one of the following ways: (1) written notice; or (2) substitute notice if the person or business demonstrates that the cost of providing notice would exceed \$250,000, or the affected class of persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information.

S.B. 1799

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Requires the Department of Revenue to notify an individual if the Department discovers or reasonably suspects that another person has used that individual's Social Security number.

S.B. 1899

Creates the Identity Theft Notification Act. Requires any agency, person, or business that conducts business in Illinois and owns or licenses data that includes personal information concerning an Illinois resident to notify the resident that there has been a breach of the security of that data following discovery or notification of the breach. Requires any agency, person, or business that maintains data that includes personal information concerning an Illinois resident and that the agency, person, or business does not own to notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been acquired by an unauthorized person. Provides that notice may be provided in one of the

following ways: (1) written notice; (2) electronic notice; or (3) substitute notice if the agency, person, or business demonstrates that the cost of providing notice would exceed \$250,000, or the affected class of persons to be notified exceeds 500,000, or the agency, person, or business does not have sufficient contact information.

Indiana**S.B. 503**

Prohibits a state agency from releasing the Social Security number of an individual unless the release is: (1) required by state law, federal law, or court order; (2) authorized in writing by the individual; (3) made to comply with the USA Patriot Act or Presidential Executive Order 13224; or (4) made to a commercial entity for permissible uses set forth in the Drivers Privacy Protection Act, the Fair Credit Reporting Act, or the Financial Modernization Act of 1999. Provides that disclosure of the last four digits of a Social Security number is not considered a disclosure of the Social Security number. Requires a state agency to notify an individual of a security breach of the agency's computer system if the individual's unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. Makes it a Class D felony to knowingly make a false representation to obtain a Social Security number or for an agency employee to knowingly disclose a Social Security number. Provides that an agency employee who negligently discloses a Social Security number commits a Class A infraction. Requires an individual who prepares a document for recording to certify that the individual reviewed the entire document and took reasonable care to redact Social Security numbers in the document. After December 31, 2007, requires a county recorder or an employee of a county recorder to search documents using the redacting technology to redact Social Security numbers before the documents are release for public inspection. Establishes a pilot project beginning July 1, 2005, to develop procedures and test technology and equipment for searching recorded documents and redacting Social Security numbers.

S.B. 544

Prohibits a state agency from releasing the Social Security number of an individual unless the release is: (1) required by state law, federal law, or court order; (2) authorized in writing by the individual; (3) made to comply with the USA Patriot Act or Presidential Executive Order 13224; or (4) made to a commercial entity for permissible uses set forth in the Drivers Privacy Protection Act, the Fair Credit Reporting Act, or the Financial Modernization Act of 1999. Provides that disclosure of the last four digits of a Social Security number is not considered a disclosure of the Social Security number. Requires a state agency to notify an individual of a security breach of the agency's computer system if the individual's unencrypted personal information was or is reasonably believed to have been acquired by an unauthorized person. Makes it a Class D felony to knowingly make a false representation to obtain a Social Security number or for an agency employee to knowingly disclose a Social Security number. Provides that an agency employee who negligently discloses a Social Security number commits a Class A infraction. Requires an individual who prepares a document for recording to certify that the individual reviewed the entire document and took reasonable care to redact Social Security numbers in the document. After December 31, 2007, requires a county recorder or an employee of a county recorder to search documents using the redacting technology to redact Social Security numbers before the documents are release for public inspection. Establishes a pilot project beginning July 1, 2005, to develop procedures and test technology and equipment for searching recorded documents and redacting Social Security numbers.

Minnesota**H.F. 1410**

Requires businesses maintaining personal information in electronic form to disclose to consumers breaches in security.

S.F. 1307

Requires disclosure to consumers of a breach in security by businesses maintaining personal information in electronic form.

Missouri**S.B. 506**

Prohibits the sharing of personal financial information with any unauthorized person unless the individual consents to the share. Requires a business or person that conducts business in the state that owns or licenses computerized data, to disclose any breach of security of that data, to any citizen of this state whose information may, or may very well have been, acquired by an unauthorized person. Allows for individuals to place security alerts and security freezes on their credit report, notifying any recipient of the report that the individual may have been a victim of identity theft, and prohibiting the release of the individual's information without the express consent of the consumer. Details the obligations of consumer reporting agencies in response to this option.

Montana**H.B. 732**

Adopts and revises laws to implement individual privacy and to prevent identity theft; requires a consumer reporting agency to block or expunge information on a report that results from a theft of identity; provides privacy protection provisions for credit card solicitations and renewals and telephone accounts; provides privacy protection for business records by requiring destruction of records; requires businesses to report a breach of computer security; requires a business that has an established business relationship with a customer and that has disclosed certain personal information to third parties to report that information to the customer; providing remedies and penalties for violation.

New Jersey**A.B. 1080**

Requires that a financial institution that discovers or reasonably should discover that a consumer's nonpublic personal information maintained by the financial institution was compromised in any way shall promptly notify the consumer of the breach of the security or confidentiality of the information. In addition to promptly notifying a consumer of the security compromise, a financial institution is required to provide assistance to the consumer to remedy any such compromise; to reimburse the consumer for any losses the consumer incurred as a result of the compromise of the security or confidentiality of such information; and to provide information concerning the manner in which the consumer can obtain assistance. However, a financial institution may delay notifying a consumer of the compromise of the security or confidentiality of the information at the request of a law enforcement agency investigating such violation for a period determined by the law enforcement agency performing the investigation. Additionally, if an issuer of credit receives a request for an additional credit card for an existing cardholder no later than 30 days after receiving a change of address for the cardholder, the issuer of credit is required to notify the cardholder of the request at the new address and former address no later than five days after sending the additional card to the new address. The issuer of credit shall also provide the cardholder with a means of promptly reporting incorrect changes. Any violation of this bill shall be punished under either N.J.S.A.56:11-38 or N.J.S.A.56:11-39, or both.

A.B. 2048

Requires a business to take all reasonable steps to destroy customer records within its control containing personal information which is no longer to be retained by the business. The customer records shall be destroyed by shredding, erasing, or otherwise modifying the personal information to make them unreadable or undecipherable through any means. In addition, any business that conducts business in New Jersey and owns or licenses computerized data that includes personal information must disclose any breach of the security of the computer system within 15 days to any customer who is a resident of New Jersey whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. However, the disclosure may be delayed if a law enforcement agency determines that notification will impede a criminal investigation. Any business that maintains computerized data that includes personal information that the business does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person. For purposes of this bill, notice may be written or electronic. If the business demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the business does not have sufficient contact information, it may provide substitute notice, which must consist of all of the following: (1) e-mail notice when the business has an e-mail address; (2) conspicuous posting of the notice on the Web site page of the business, if the business maintains one; and (3) notification to major statewide media. However, a business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of the bill, shall be deemed to be in compliance with the notification requirements of this bill if the business notifies subject persons in accordance with its policies in the event of a breach of security of the system. Finally, a violation of any provisions of this bill shall be an unlawful practice subject to the penalties applicable to a violation of the consumer fraud law pursuant to N.J.S.A. 56:8-13. Under N.J.S.A. 56:8-13, any business who violates any of the provisions of this bill, in addition to any other penalty provided by law, shall be liable to a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense.

New York**A.B. 1525**

Requires any banking institution that owns or licenses data that includes personal identifying information to disclose any breach of security following discovery or notification of such breach to any person whose personal identification was, or is reasonably believed to have been, acquired by an unauthorized person; defines personal identifying information and breach of security.

A.B. 4254

Requires any state agency or business which owns or licenses a computerized database which includes vulnerable personal information shall disclose any breach of security of such system to any resident of New York state whose unencrypted personal information may have been acquired by an unauthorized person; provides enforcement provisions.

A.B. 5487

Enacts the "personal information protection act", requiring disclosure of breaches of security of data systems of business entities to affected persons; provides for administration by the department of state; requires use of best available technology to detect breaches of security; provides for a private right of action.

S.B. 2161

Requires any state agency or business which owns or licenses a computerized database which includes vulnerable personal information shall disclose any breach of security of such system to any resident of New York state whose unencrypted personal information may have been acquired by an unauthorized person; provides enforcement provisions.

S.B. 2906

Requires notice to residents when a computerized database security breach releases personal information.

Ohio

H.B. 104

Requires a state agency, person, or business to contact individuals if unencrypted personal information about those individuals that is maintained on the computers of the agency, person, or business is obtained by unauthorized persons.

S.B. 89

Requires a state agency, person, or business to contact individuals if unencrypted personal information about those individuals that is maintained on the computers of the agency, person, or business is obtained by unauthorized persons.

Oregon

S.B. 626

Requires a person who owns or uses personal information to notify an individual when there is an unauthorized acquisition of personal information that compromises security of information.

Rhode Island

H.B. 5893

Establishes a duty to disclose any breach of security of a computerized data system.

S.B. 880

Establishes a duty to disclose any breach of security of a computerized data system.

Tennessee

H.B. 2170

Requires persons, businesses or government agencies that discover a breach of information security resulting in disclosure of unencrypted personal information about persons to unauthorized third parties to provide notice of such disclosure.

S.B. 2220

Requires persons, businesses or government agencies that discover a breach of information security resulting in disclosure of unencrypted personal information about persons to unauthorized third parties to provide notice of such disclosure.

Texas

H.B. 1527

Requires those who own or license data that includes identifying information to promptly notify the resident of any alleged breach of the security of the person's data system, regardless of whether the resident's identifying information has been accessed by an unauthorized person.

Virginia

H.B. 2721

Requires agencies and businesses that maintain computerized data that includes personal information to notify the subject of that information when a breach of the database containing that information is discovered. No notice is required if an investigation determines that there is no reasonable belief that the information has been or will be used in an unlawful manner. Provides for various means of notifying the owner or licensee of that information and requires the agency or business to coordinate notification with

consumer reporting agencies if they indicated that the affected individual can obtain a credit report. Damages for an agency violating this requirement are provided in the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.). Damages for a business violating this requirement are provided in the Personal Information Privacy Act or PIPA (§ 59.1-442 et seq.). Expands the damages available for violations of PIPA to include actual damages, if greater than \$100 per violation, and injunctive relief.

Washington

S.B. 6043

Requires any agency that owns or licenses computerized data that includes personal information to disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Requires the disclosure to be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in this act, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. Requires any person or business that conducts business in this state and that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in this act, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

West Virginia

H.B. 2772

Requires commercial entities who maintain databases containing resident individuals' personal information, to notify a resident individual, in writing, whenever the individual's personal information has been compromised by unauthorized disclosure; and defines personal information.

NCSL Contact: Pam Greenberg, pam.greenberg at ncsl.org, NCSL Denver Office, 303-364-7700

 [Privacy Home](#)

2004 Legislation

(Red highlight indicates legislation failed/was not enacted; green highlight indicates legislation passed/was enacted)

California

S.B. 1279

Passed Senate 5/24/04

Requires an agency, or a person or business conducting business in California, that possesses any data that includes the personal information of a California resident, to notify the resident of any breach of the security of the data, as specified.

Florida

H.B. 1189

Died in committee 4/30/04

Requires certain persons who maintain computerized data that contains personal information to notify any state resident whose unencrypted personal information may have been obtained as result of security breach; provides for forms of notice; provides exceptions and alternative forms of notice; provides for delays in notification in certain circumstances.

S.B. 2684

Died in committee 4/30/04

Requires certain persons who maintain computerized data that contains personal information to notify any state resident whose unencrypted personal information may have been obtained as result of security breach; provides for forms of notice; provides for delays in notification in certain situations.

Louisiana

S.B. 417

Legislature adjourned June 21, 2004

Requires businesses to notify customers of a breach of security of their computerized data.

New Jersey**A.B. 1080**

10/4/2004 Reported out of Asm. Comm. with Amendments, and Referred to Assembly Financial Institutions and Insurance Committee
Requires that a financial institution that discovers or reasonably should discover that a consumer's nonpublic personal information maintained by the financial institution was compromised in any way shall promptly notify the consumer of the breach of the security or confidentiality of the information. In addition to promptly notifying a consumer of the security compromise, a financial institution is required to provide assistance to the consumer to remedy any such compromise; to reimburse the consumer for any losses the consumer incurred as a result of the compromise of the security or confidentiality of such information; and to provide information concerning the manner in which the consumer can obtain assistance. However, a financial institution may delay notifying a consumer of the compromise of the security or confidentiality of the information at the request of a law enforcement agency investigating such violation for a period determined by the law enforcement agency performing the investigation. Additionally, if an issuer of credit receives a request for an additional credit card for an existing cardholder no later than 30 days after receiving a change of address for the cardholder, the issuer of credit is required to notify the cardholder of the request at the new address and former address no later than five days after sending the additional card to the new address. The issuer of credit shall also provide the cardholder with a means of promptly reporting incorrect changes. Any violation of this bill shall be punished under either N.J.S.A.56:11-38 or N.J.S.A.56:11-39, or both.

A.B. 2048

2/5/2004 Introduced, Referred to Assembly Consumer Affairs Committee

Requires a business to take all reasonable steps to destroy customer records within its control containing personal information which is no longer to be retained by the business. The customer records shall be destroyed by shredding, erasing, or otherwise modifying the personal information to make them unreadable or undecipherable through any means. In addition, any business that conducts business in New Jersey and owns or licenses computerized data that includes personal information must disclose any breach of the security of the computer system within 15 days to any customer who is a resident of New Jersey whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. However, the disclosure may be delayed if a law enforcement agency determines that notification will impede a criminal investigation. Any business that maintains computerized data that includes personal information that the business does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person. For purposes of this bill, notice may be written or electronic. If the business demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the business does not have sufficient contact information, it may provide substitute notice, which must consist of all of the following: (1) e-mail notice when the business has an e-mail address; (2) conspicuous posting of the notice on the Web site page of the business, if the business maintains one; and (3) notification to major statewide media. However, a business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of the bill, shall be deemed to be in compliance with the notification requirements of this bill if the business notifies subject persons in accordance with its policies in the event of a breach of security of the system. Finally, a violation of any provisions of this bill shall be an unlawful practice subject to the penalties applicable to a violation of the consumer fraud law pursuant to N.J.S.A. 56:8-13. Under N.J.S.A. 56:8-13, any business who violates any of the provisions of this bill, in addition to any other penalty provided by law, shall be liable to a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense.

New York**A.B. 9184****S.B. 6517**

Requires any state agency or business which owns or licenses a computerized database which includes vulnerable personal information shall disclose any breach of security of such system to any resident of New York state whose unencrypted personal information may have been acquired by an unauthorized person; provides enforcement provisions.

A.B. 9431**S.B. 6615**

Enacts the Personal Information Protection Act, requiring disclosure of breaches of security of data systems of business entities to affected persons; provides for administration by the Department of State; requires use of best available technology to detect breaches of security; provides for a private right of action.

A.B. 10295**S.B. 7121**

Requires any banking institution that owns or licenses data that includes personal identifying information to disclose any breach of security following discovery or notification of such breach to any person whose personal identification was, or is reasonably believed to have been, acquired by an unauthorized person; defines personal identifying information and breach of security.

A.B. 11012

S.B. 6739

Requires notice to residents when a computerized database security breach releases personal information.



2003 Legislation

(Red highlight indicates legislation failed/was not enacted; green highlight indicates legislation passed/was enacted)

New York

A.B. 9184

S.B. 6517

Requires any state agency or business which owns or licenses a computerized database which includes vulnerable personal information shall disclose any breach of security of such system to any resident of New York state whose unencrypted personal information may have been acquired by an unauthorized person; provides enforcement provisions.

2002 Legislation

(Green highlight indicates legislation passed/was enacted)

A.B. 700

Chaptered by secretary of state 9/29/02, Chapter 1054

Operative July 1, 2003, requires a state agency, or a person or business that conducts business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the data, as defined, to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Permits the notifications required by its provisions to be delayed if a law enforcement agency determines that it would impede a criminal investigation. Requires an agency, person, or business that maintains computerized data that includes personal information owned by another to notify the owner or licensee of the information of any breach of security of the data, as specified. States the intent of the Legislature to preempt all local regulation of the subject matter of the bill. Makes a statement of legislative findings and declarations regarding privacy and financial security.

NCSL Contact: Pam Greenberg, pam.greenberg@ncsl.org, NCSL Denver Office, 303-364-7700



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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB226-LAW-C&FB-4-5-C
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to breaches of security involving RDU CIVIL
personal information; and relating to credit report..." Component Commercial & Fair Business
Sponsor Representative Gara
Requester House Labor and Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill adds a chapter to AS 45 that imposes disclosure requirements on businesses that collect and store personal information if there is a security breach of the businesses' information system. In the event of a security breach, notice of the breach must be made to consumers by either written or electronic means, with some exceptions if the notice will cost more than \$250,000, or the number of affected consumers exceeds 500,000. Consumers can bring a court action for violations of this law to recover damages and injunctive relief.

The bill also adds a section that allows consumers to place a security freeze on his or her credit report. When a security freeze is in place, a credit reporting agency may not release information from the consumer's credit report to third parties unless requested by the consumer. There are several exemptions for access required to correct technical information, and for some agencies like the child

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division Administrative Services Division Date/Time 4/5/05 3:23 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/5/2005
Agency Department of Law

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. _____

ANALYSIS CONTINUATION

support enforcement agency, Department of Health and Social Services, and Department of Revenue. Court action can be brought by consumers to enforce this law. Remedies include injunctive relief, damages (including lost wages and pain and suffering), and punitive damages up to \$5000.

Violations of the provisions of this bill are not automatically violations of Alaska's Consumer Protection Act. Consumers will likely be left to their own enforcement efforts for violations of this Act except in the most egregious cases where the State may bring an action. I do not believe there will be any significant fiscal impact to the Department of Law from this bill.

HB

227

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR CSHB 227(L&C) BY: Representative Tom Anderson

TITLE: "An Act relating to the Alaska Small Loans Act; and providing for an effective date."

The last significant revision of the Alaska Small Loans Act (ASLA) occurred between 1995 and 1996. The bill (then numbered HB 319) was signed into law in July 1996 and brought this section of statute up-to-date with the changing market demands. There have been several changes to the market in the last decade, and more importantly, there has been many more changes in technology. As computer systems become more and more adept at taking, storing, sorting, and retrieving information, our laws must reflect the most efficient use of those innovations.

House Bill 227, the latest revision of AS 06.020, takes into account not only the market-driven or technological changes, but also the changes in the value of money. Put simply, goods cost more today than they did twenty, ten, or even five years ago. For example, it is not unheard of to pay between \$7,500 and \$10,000 for an ATV or snowmachine. Also, manufacturer's list prices for new automobiles can start as high as \$40 - \$50,000. Clearly the definition of what constitutes a small loan needs some adjustment.

HB 227 improves the business environment by encouraging industry competition, which ultimately should decrease loan prices as well as providing consumers additional products and services to choose from. HB 227 will also update the Small Loans Act to reflect current technology. As written today, the law does not recognize automated or centralized process utilized by most companies today.

We worked with both members of financial community and with the Division of Banking and Securities to find language balancing the parties' wish lists and consumer protection. HB 227 updates the ASLA to make the law reflective of current industry practices and raises the limit of a small loan from \$25,000 to \$50,000 broadening the Department's regulatory oversight. Additionally, it doubles the liquid assets and bond requirements from \$25,000 to \$50,000 for businesses writing small loans.

I would ask for your support on HB 227.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
ADMINISTRATION REGULATION REVIEW COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, VICE-CHAIR

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Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

Sectional Analysis CS HB 227 (L&C)

Section 1

Sec. 06.20.010(a)

Permits licensees of the Act to charge interest rates above the rate of interest described in 45.45.010. This provision increases the maximum loan amount subject to this chapter from \$25,000 to \$50,000

Section 2

Sec. 06.20.010(b)

Outlines exemptions from the application requirements of AS 06.20.010(a)

Section 3

Sec. 06.20.015

Adds a new section permitting the Department to issue endorsements for licensees with multiple locations engaging in small loans.

Section 4

Sec. 06.20.020(a)

Outlines application requirements to include applicants mailing address, and the business and residence address of any partners.

Section 5

Sec. 06.20.030(a)

Changes the expenses incurred by the Department in investigating an application from those state in AS 06.01.010 to a rate determined by the Department in regulation.

Section 6

Sec. 06.20.030(b)

Increases the license fee to \$2,500 for a single location license and \$10,000 for a multiple location license.

Section 7

Sec. 06.20.040

Increases the liquid asset requirement from \$25,000 to \$50,000 for each location.

Section 8

Sec. 06.20.050

Increases the bonding requirement from \$25,000 to \$50,000

Section 9

Sec. 06.20.050

Adds new section requiring the bonding stay in force until the Department revokes the license, until all loans made by licensee are paid in full, and while there is pending litigation on a loan.

Section 10

Sec. 06.20.060

Defines the Department's responsibilities in approving and denying an application

Section 11

Sec. 06.20.063

Adds a new section that defines specific grounds for the Department to disapprove an application.

Sec. 06.20.065

Adds a new section requiring written notification of disapproval and outlines the response times for requesting a hearing.

Sec. 06.20.067

Adds a new section making the license continuous until surrendered, revoked, or suspended.

Section 12

Sec. 06.20.070

Outlines that the license will be in a form prescribed by the department, and requires that it be conspicuously posted in each place of business.

Section 13

Sec. 06.20.070

Adds a news paragraph requiring the license state the website domain address and physical location of the principal place where the licensee conducts business.

Section 14

Sec. 06.20.090

Provides requirements for noticing the Department when a licensee changes the place of business.

Section 15

Sec. 06.20.110

Clarifies the grounds for the Department to revoke or suspend a license.

Section 16

Sec. 06.20.120

Outlines the Department's ability to revoke or suspend a licensee who has multiple locations.

Section 17

Sec. 06.20.125

Adds a new section allowing the department to place restrictions on business activities of a licensee during a suspension or revocation.

Section 18

Sec. 06.20.130

Adds a new section that provides for the surrender of a license.

Section 19

Sec. 06.20.130

Adds a new section requiring a licensee to surrender a license after 24 months of inactivity.

Section 20

Sec. 06.20.140

Describes the effect of a license revocation, suspension, or surrender.

Section 21

Sec. 06.20.140

Add a new section stating the surrender of a license does not affect civil or criminal liability for acts committed before the surrender.

Section 22

Sec. 06.20.150

Outlines conditions for license reinstatement

Section 23

Sec. 06.20.155

Adds a new section requiring the Department to proceed under the Administrative Procedure Act when revoking or suspending a license.

Section 24

Sec. 06.20.160

Outlines the Department's responsibilities to conduct inspections and examinations of licensees. allows for the costs of examinations to be bore by the licensee, and describes the type and nature of the examinations.

Section 25

Sec. 06.20.180

Outlines the type of records to be kept by the licensee and for how long they must be kept.

Section 26

Sec. 06.20.190

Sets the requirement for annual reports to be submitted by the licensee.

Section 27

Sec. 06.20.200(p)

Amends current statute to address misrepresentation in advertising for loans.

Section 28

Sec. 06.20.210

Requires a licensee to notify the department if they intend to conduct other business activities at a licensed location and gives the department the ability to prohibit other business under certain circumstances.

Section 29

Sec. 06.20.230

Reduces the maximum amount of interest rates on certain loans from 36% APR or the higher of 24% or 10% above the Federal Reserve discount rate.

Section 30

Sec. 06.20.240

Prohibits a licensee from inducing a person or persons to rewrite loans with the sole purpose of obtaining a higher interest rate.

Section 31

Sec. 06.20.250(c)

Revises the maximum term for loans between \$5,000 and \$25,000.

Section 32

Sec. 06.20.260

Outlines the type of charges a licensee can charge, what charges are prohibited, late fee amounts, NSF amounts, and other types of charges that would accompany a consumer loan or fees associated with the servicing of those types loans.

Section 33

Sec. 06.20.270

Itemizes the type of information licensees must provide to borrowers during the loan process, from consummation to completion.

Section 34

Sec. 06.20.285

Restates the method for calculating interest on open-ended loans.

Section 35

Sec. 06.20.290

This section prohibits a licensee from taking an assignment of earnings as payment or security for a loan.

Section 36

Sec. 06.20.320

Outlines allowable penalties the Department may assess a licensee.

Section 37

Sec. 06.20.340

Requires the Department to notify licensees when regulation changes are made.

Section 38

Sec. 06.20.370

Adds a new section giving the department the authority to issue an order to remove or suspend an officer under certain circumstances.

Sec. 06.20.380

Adds a new section regarding the department's ability to issue a cease and desist order.

Sec. 06.20.390

Adds a new section prohibiting a person from providing false information during and examination or investigation.

Sec. 06.20.400

Adds a new section permitting the department to make rulings necessary to enforce this chapter.

Sec. 06.20.410

Adds new section permitting the department to file an action in court in order to enforce this chapter. Makes the violation of this chapter a Class A misdemeanor.

Sec. 06.20.420

Adds a new section that states if any provision of this chapter are in conflict with federal law, then the provision does not apply.

Section 39

Sec. 06.20.900

Provides additional definitions for the terminology used in this chapter.

Section 40

Sec. 08.76.040(b)

Adjusts the recovery amount a pawnbroker shall pay a pledgor to reflect the change in the 1993 increase in the pawn limit. This change reflects the original intent to allow for twice the maximum pawn limit as it was passed in 1955 and revised in 1982.

Section 41

Sec. 18.80.250(c)

Amends the unlawful financing practice statues to include reflect the new changes in this bill.

Section 42

Sec. 43.70.080(a)

Provides an exemption to the state's business license fee due to the high nature of the licensing fee under this chapter.

Section 43

List of statues to be repealed due to the new changes in this legislation

Section 44

Adds a new section allowing the Department to adopt regulations under Section 1-43, and 45.

Section 45

Provides transition language for the Department to adopt regulation for the implementation of the act.

Section 46

Implements Section 44 immediately.

Section 47

Provides for effective date of Jan. 1, 2007 for Sections 1-43 and 45.



Wells Fargo Financial
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Des Moines, IA 50309-3636
515-243-2131

STATEMENT OF WELLS FARGO FINANCIAL IN SUPPORT OF HB 227

Wells Fargo Financial, an affiliate of Wells Fargo Bank, operates seven offices in Alaska as Small Loan Licensees. When the Department of Commerce, Community, and Economic Development contacted Wells Fargo Financial a few years ago requesting our input into the modernization of Alaska's Small Loan law, we provided a list of recommended changes. Because of the Department's workload constraints, Wells Fargo Financial, through its retained lobbyist, has been working with the House Labor and Commerce Committee leadership to revise the Small Loan law. The Bill under consideration today considerably improves the lending industry environment in Alaska; it invites new business which ultimately benefits Alaska consumers by creating a more competitive lending environment. Although there are additional revisions Wells Fargo Financial would prefer to see implemented, we feel this proposed legislation is a move in a positive direction for Alaska, its consumers, and its lending industry. HB 227, through the combined knowledge and efforts of the Department, the Committee and Wells Fargo Financial, offers an improved and modernized Small Loan law, and Wells Fargo Financial hopes it meets with your support.

PART III: EFFECTS OF RATE CEILINGS ON CONSUMERS

The previous section has described the benefits of allowing a competitive market to establish the rates charged on consumer credit. This section examines and documents the effects on consumers when government interferes in the market and sets prices on consumer credit.

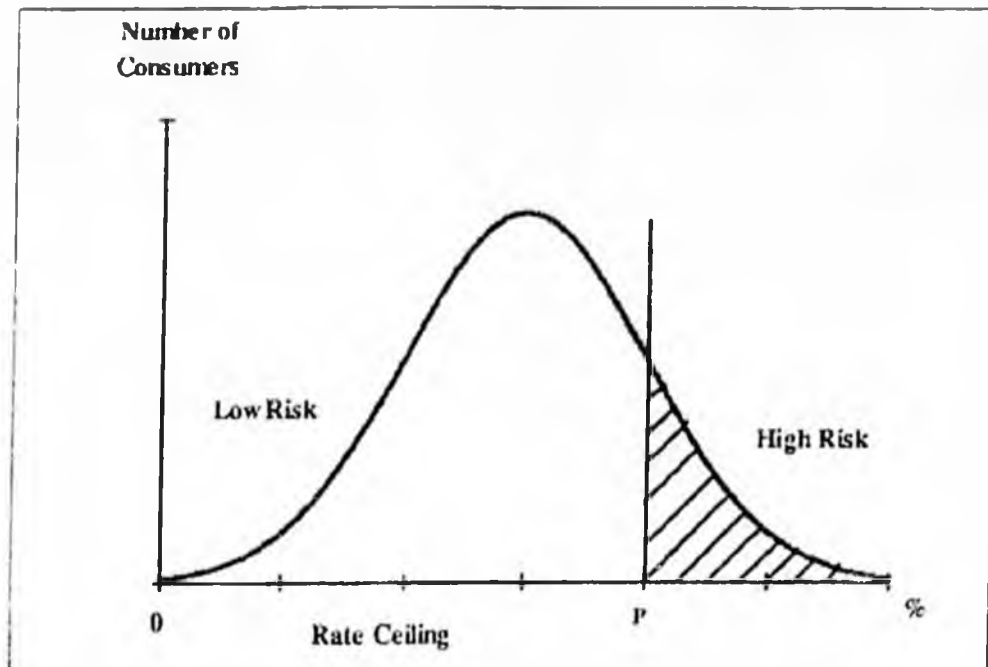
A. Cash credit

Contrary to the best intentions of legislators rate ceilings on loans--primarily installment loans and mortgage loans--"heap distress" on consumers in two general ways. First, some consumers are simply denied cash credit. Second, having been denied credit, these consumers will seek to find other means or sources of obtaining credit to meet their needs. Obviously, these other methods are "second best," or they would have used them in the first place.

1. Availability of credit

The impact of rate ceilings on the availability of cash credit to high-risk consumers is readily illustrated by referring to Exhibit 19. Consumers are arrayed along the horizontal axis according to the minimum percentage finance charge at which creditors would be willing to extend them a loan. A small number of low-risk consumers comprise the left-most tail of the distribution of all consumers. Repayment risk associated with customers increases outward along the horizontal axis, driving up the minimum loan rate at which those customers could be served. The right-hand tail of the distribution represents the highest risk customers in the distribution of all potential borrowers, those whom creditors would be willing to serve only at very high interest rates. Should the government impose an artificial cap on loan rates at p , all consumer to the right would be denied access to the legal market.

Exhibit 19
Effect of Rate Ceiling on Availability of Cash Credit to Consumers



Why is this so? The higher the risk posed by credit applicants, the higher the costs to creditors of granting them credit. High-risk accounts typically breed above-average collection costs and, ultimately, higher credit losses. Experience varies among banks, credit unions and finance companies, but it generally takes eight to ten good accounts to offset the losses on one bad account. If the government does not permit lenders in the private sector to charge a rate high enough to cover these costs, financial institutions will not lend to consumers who would generate these costs.

As indicated earlier, the impact of rate ceilings has been so widely accepted that few empirical studies have been conducted on the issue in the past decade. Fortunately, basic economic principles and data do not wither with age. In a very large national study of loans made by commercial and savings banks, the National Commission on Consumer Finance in 1971 found that in 16 states with high rate ceilings, the dollars of loans per family were 21 percent higher than in the 16 states with low rate ceilings (Exhibit 20).⁴² The data indicate that consumers who were creditworthy in the high ceiling states would not have received legal cash loans in the low ceiling states.

⁴² *Consumer Credit in the United States*, pp. 134-35.

Exhibit 20
Bank Personal Loans, Second Quarter 1971

	Number of Loans per 100 Families	Dollars of Loans per Family
Low-ceiling states	3.66	37.02
High-ceiling states	4.53	44.82

Source: National Commission on Consumer Finance, *Consumer Credit in the United States*, 1972, pp. 134-35.

A rate ceiling not only rations high-risk consumers out of the market, but also tends to ration out consumers seeking small amounts of credit. In addition to the costs associated with credit risk, there are administrative costs in granting credit and managing subsequent collections. Since many of these costs are fixed and unrelated to the amount of credit generated, they are proportionately higher for small amounts of credit. If these costs are not covered by the permitted finance charge, credit will not be extended, even to low-risk consumers.

A simple example illustrates the point. Assume that a hair dryer might be purchased for cash for \$20. Alternatively, it may be purchased for \$2.00 down and \$2.00 per week for ten weeks: total cost equals \$22, of which \$2.00 is the finance charge. Would a 20 percent cap on finance charges permit the transaction? Hardly, the annual percentage rate on that credit transaction is 102 percent. Yet, the \$2 charge imposed by the creditor does not seem unreasonable considering the cost of setting up the credit arrangement and processing 10 payments. It is reasonable to believe that high-risk consumers are often those who, at best, can afford to borrow only small amounts.

The effects on the market and consumers of imposing restrictive rate ceilings on small loans to high-risk borrowers are dramatically illustrated by the experience in Massachusetts. In 1977, in an effort to "protect" consumers the state legislature sharply cut rates that consumer finance companies were permitted to charge, especially on loans of less than \$2,500. Far from protecting consumers who needed to borrow only small amounts of money, the lowered rate ceilings caused lenders to shift away from offering those smaller loans into larger loans which were often collateralized by borrowers' homes, an option not available to less affluent renters. Comparison of their lending activity in 1975 and 1979 shows that:

the number of loans made below \$500 declined by 32 percent, and the large, national finance companies dramatically increased their investment in large second mortgage loans. At the same time the industry structure changed. The number of loan offices fell by 35 percent, with the small, local companies bearing most of the brunt of the decline in loans made and loans outstanding.⁴³

Even when consumers have been rationed out of the market by government price-fixing, they may still want to borrow money. Evidence of the strength of their demand is illustrated by Arkansas, where only a few

⁴³ Robert W. Johnson and A. Charlene Sullivan, *Restrictive Effects of Rate Ceilings on Consumer Choice: The Massachusetts Experience*. Working Paper No. 25. West Lafayette, IN: Credit Research Center, Purdue University, 1980, p. ii.

finance companies operate under a punitive rate ceiling. Law students who interviewed lenders in that state reported that finance companies did not advertise extensively because the expense was not warranted. One lender complained that "an advertising campaign draws borrowers like flies." However, 90 percent of those attracted were rejected because they could not be served under the rate ceiling. In other states, the rejection rate was around 50 percent. The researchers concluded, "This comparison indicated that a large segment of the Little Rock population is not regularly served by potential sources of small loans."⁴⁴

What do we know about these high-risk consumers that are excluded from the cash market by government fiat? Credit-scoring systems provide very good clues to the nature of consumers representing above-average risk. They are primarily consumers who are young, have a short time-on-the job or at their residence, rent homes, and are relatively unskilled workers. They are also likely to have lower incomes than more creditworthy consumers. The adverse effects of rate ceilings on low-income consumers has been documented in a study based on household financial data obtained from the 1983 Survey of Consumers' Finances. In that study, Villegas (1989) segmented respondents into three groups according to household income (high, medium and low) and tested how much credit they were able to obtain in states with and without rate ceilings. He concluded that "on average a low-income household residing in a state with usury ceilings had \$1,012 less consumer credit than an identical household in a state without usury ceilings."⁴⁵ In contrast, those consumers classified as having high-incomes were unaffected by the rate ceilings.

Confirming evidence is provided in the area of bank credit cards. A bank that is being squeezed between rising costs and a rate ceiling will attempt to reduce its credit risks. If it is using a credit-scoring system, it will raise the "hurdle rate" or "cutoff point" associated with acceptance. Using a bank's credit scoring system, Shay and Dunkelberg (1975) demonstrated the differences in rejection rates by income groups if the bank raised its cutoff point.⁴⁶

⁴⁴ "An Empirical Study of the Arkansas Usury Law: 'With Friends Like That...'" *Law Forum* (1968), pp. 580-81.

⁴⁵ Villegas, *op. cit.*, 136.

⁴⁶ Robert P. Shay and William C. Dunkelberg, *Retail Store Credit Card Use in New York*. New York: Graduate School of Business, Columbia University, 1975, p. 55.

Exhibit 21
Simulated Rejections of Holders of Bank Credit Cards
by Credit Score Cutoff Points

Cutoff Raised from 19 to:	% of Cardholders Who would be Rejected	Percent of rejected cardholders with incomes:			
		≤\$7,500	≤\$10,000	≤\$15,000	≤\$20,000
24	1.6	89%	89%	100%	100%
29	6.6	50	58	82	91
34	18.4	30	55	77	89
39	36.3	19	42	68	87
Percent of total sample of cardholders		8.9	17.3	42.0	68.4

Source: Shay and Dunkelberg, *Retail Store Credit Card Use in New York*, 1975, p. 55.

The results shown in Exhibit 21 are dramatic and consistent with theory. Raising the hurdle rate from 19 to 24 would have eliminated about two percent of the cardholders. However, 89 percent of those rejected had incomes less than \$10,000, the median income at that time. Since only 17 percent of all of the cardholders had incomes of less than \$10,000, tightened credit standards clearly would have had a disproportionate effect on low-income consumers.

Just because consumers have low incomes and need small amounts of credit does not mean that they should not have credit. Important insight into the needs of high-risk consumers who want small cash loans is provided by an extensive study of the small loan industry in Texas by Durkin (1972). At the time of his study the maximum loan that could be made by these high-rate lenders licensed under Article 3.16 of Texas statutes was \$100, with permitted rates ranging from 108.75 percent for \$100 loans for six months to 240 percent for a one-month loan of \$30 or less. Only 4.1 percent of the loans surveyed were for \$30 or less.

Why did these consumers borrow such small sums? Interviews revealed a wide range of needs that were met: old bills, debt consolidation, medical expenses, autos (purchase, parts, or repair), clothing, food, utility bills, house payments or improvements, family aid, taxes or insurance, and so on. Four-fifths of the borrowers knew that their loans were more expensive than bank loans, but these were generally not available to them.

What were the borrowers like? Given their needs, should they have been rationed out of the legal market by lower rate ceilings?

... most of them belong to the parts of the population that often have trouble obtaining credit. Over 36 percent of the borrowers sampled were unmarried, including over 14 percent who were separated or divorced and almost 9 percent who were widowed. The large majority of small small loan borrowers in

the sample were employed at low level unskilled jobs and most had incomes well below the median for the city where they lived. Over 15 percent of the borrowers were living on pensions or social security.⁴⁷

2. Reduction in competition

Since there are some fixed costs in lending to consumers (e.g. computers, development of sophisticated credit-evaluation systems), large lenders may have some competitive advantages over their smaller competitors. In a study for the National Commission, Benston (1972) found that large finance companies were more profitable than smaller firms, although there did not appear to be economies of scale in their operating expenses. However, there were economies of scale for large offices vs. small loan offices.⁴⁸

If there is an advantage to being "big," whether by firm or by lending office, large firms making cash loans are better able to survive under restrictive rate ceilings than their smaller competitors. Evidence is provided by the study of the effect of cutting rate ceilings in Massachusetts. The legislation not only made it more difficult for high-risk consumers to obtain a loan, but it also reduced the accessibility of loans by fostering a reduction in the number of loan offices from 266 to 172 over the period studied.⁴⁹ While individual consumers must usually obtain cash loans from local markets--now under-served as a result of the reduction in rate ceilings--lenders are free to move their funds globally to their most profitable use. Obviously, lenders in Massachusetts did just that, shifting their funds into other states and into second-mortgage loans to homeowners within the state. The least affluent and least creditworthy citizens found loan offices both less conveniently located and less likely to grant credit.

3. Evasive tactics

When the government intervenes between consumers who willingly borrow and lenders who willingly lend, both parties try to work around the impediments placed in their way by the legislature. This is neither cynical or illegal. It is simply the market at work. Unfortunately, evasion imposes additional costs on consumers and not necessarily the consumers who are borrowing. Evasion also imposes costs on society as a whole. Just as any road detour requires extra time and gas, so does a detour that consumers take to obtain cash credit create extra costs that are not productive for society in any sense.

a. Increase in other charges to consumers. The diverse impact on consumers of rate ceilings on cash credit is illustrated by data from a four-state study conducted in early 1979 by the Credit Research Center at Purdue University under a grant from the National Science Foundation. The study permits comparison of lenders' reactions to ten percent rate ceilings in Arkansas with states having much higher rate ceilings: Louisiana, Illinois and Wisconsin. Commercial banks in Arkansas evidently used various means, including raising fees on other bank services, to offset their mandated loss of revenues from loans to consumers.

⁴⁷ Thomas A. Durkin, "A High Rate Market for Consumer Loans: The Small Small Loan industry in Texas," *Technical Studies, Volume II*. Washington, D.C.: National Commission on Consumer Finance, 1972, p. 89.

⁴⁸ George J. Benston, "The Costs to Consumer Finance Companies of Extending Consumer Credit," in *Technical Studies, Volume II*. Washington, D.C.: National Commission on Consumer Finance, 1972.

⁴⁹ Johnson and Sullivan, *op. cit.*, p. 14.

Significant differences between the charges of Arkansas banks and banks in the other three states were found by Peterson and Falls (Exhibit 22).⁵⁰

A study by Sullivan of the same database found that, in relation to banks in the three control states, "banks in the Arkansas area were open to provide consumer services fewer hours per week." They also appeared somewhat less likely than banks in other states to provide ATMs to their customers.⁵¹

b. Resort to sales or lease credit As will be seen in the following section, credit sellers can readily avoid rate ceilings merely by increasing the cash prices of their goods and services. Consequently, when consumers are unable to obtain small cash loans to shop for autos or household goods, then can go directly to sellers of goods and services and obtain financing through them. This practice is, however, a second-best choice for consumers. A consumer who finds a dealer willing to extend credit is "locked in" to the products sold by that dealer. Unable to obtain cash loans, consumers also resort to rent-to-own suppliers to obtain TVs and other household equipment. A perusal of the phone book in Little Rock reveals many such suppliers.

Exhibit 22
Significant* Differences in Credit Terms at
Arkansas Commercial Banks and Those in Three Control
States
(Mean values)

	Arkansas	Other	t-Values
Credit investigation fees (mortgages)	\$23.33	\$11.57	2.83
Bank check charges on minimum balance:			
0-99 dollars	\$4.21	\$0.77	5.43
199-199 dollars	\$3.10	\$1.90	1.96
200-299 dollars	\$1.74	\$1.06	1.99
300+ dollars	\$0.80	\$0.00	2.35
Check overdraft charges	\$6.21	\$4.81	1.97
Minimum personal loan size	\$1,571.52	\$579.94	8.24
Cosigners on most recent loan:			
Family auto purchase	12.7%	6.7%	6.44
Personal loan	13.0%	8.0%	2.82
Average maturity on auto loan (first car)	37.4 mo.	39.1 mo.	2.27
Percent of banks making 48-mo. auto loans	42.9%	87.5%	3.89

*Significant at 10 percent confidence level

Source: Peterson and Falls, *Impact of Ten Percent Usury Ceiling*, 1981, pp. 11, 16-17.

⁵⁰ Richard L. Peterson and Gregory A. Falls, *Impact of a Ten Percent Usury Ceiling. Empirical Evidence*. Working Paper No. 40. W. Lafayette, IN: Credit Research Center, Purdue University, 1981, pp. 11, 16-17.

⁵¹ A. Charlene Sullivan, *Evidence of the Effect of Restrictive Loan Rate Ceilings on Prices of Consumer Financial Services*. Working Paper No. 36. W. Lafayette, IN: Credit Research Center, Purdue University, 1980, pp. 12-13.

C. Resort to high-cost sources of cash credit. When high-risk consumers are denied cash loans by finance companies, banks or credit unions, they turn to both legitimate and illegitimate sources of credit. Some consumers will buy marketable goods, such as TVs, and then sell them for cash. Obviously, the cost of credit with that arrangement is considerably higher than would be the case were more established sources of cash credit permitted to operate.

An alternative source of cash credit is pawn shops, which are attracted to states where rate ceilings on consumer loans have curtailed the ability of potential competitors to make small, high-risk loans, while permitting pawnshops that privilege. For example, a study comparing the similar cities of Little Rock, AR and Champaign-Urbana, IL found that the former city had four pawn shops, while the latter had only two.⁵²

d. Resort to illegal lenders. Finally, consumers who are unable to detour to legitimate sources of cash credit may, in desperation, turn to illegal lenders. The rates that these consumers pay has been described by John M. Seidl in testimony before the U.S. House Subcommittee on Consumer Affairs:

The rate in some urban areas for small loans is 20 percent per week--"6 for 5." The interest charge--called "vig," "vigorish," or "juice" by borrowers and lenders alike--is due each week as long as the principal is outstanding. The principal can be reduced only by lump-sum or, in some cases, half-lump-sum payments. Since Truth-in-Lending requires statement of interest rates in percent per annum, it will be apparent that 20 percent per week is 1,040 percent per annum.

In other urban areas the rate is 20 percent for a six week or ten week period with interest charges added to the principal and the total repaid in equal weekly installments ... Twenty percent add-on for a six to ten week period produces from approximately 200 percent to 350 percent per annum.⁵³

B. Sales credit

Assume that an amusement park has a large number of hot dog stands, all competing vigorously with each other for sales. The Commissioner of the amusement park decides that some consumers find it difficult to buy hot dogs at the going price of 50 cents each and decrees that, to protect these consumers, the price charged for a hot dog may not exceed 40 cents. Query: what will happen to the prices charged for the bun and mustard?

Just as the forced reduction in the selling price of the hot dog generates a higher price for the bun and mustard, so does a legislated reduction in the finance charge on sales credit get transmitted into a higher price for the goods or services sold on credit. There is abundant evidence of "padding" cash selling prices in order to produce a lower rate of finance charge (annual percentage rate). A study by the Federal Trade Commission of credit and sales practices in the District of Columbia showed that the average rates charged low-income consumers buying goods and services on credit in the inner city was only four percentage points higher than the rates charged by general market retailers. On a \$100 purchase, that difference would amount to about \$2 on a 12-month contract. The costs of the higher risk and the typically small amounts financed appeared in the differences in the cash prices of the goods sold on credit. The average price of a television

⁵² "An Empirical Study of the Arkansas Usury Law," *op. cit.*, p. 580.

⁵³ *Hearings on Consumer Credit Regulations Before the Subcommittee on Consumer Affairs of the House Banking and Currency Committee*, 91st Cong., 1st Sess., pt. 1, at 185 (1969).

set with a wholesale price of \$100 was \$187 at low-income retailers, compared with \$131 at an appliance store serving the general market.⁵⁴ Lowering the rate ceiling on sales credit would merely have generated an even higher cash-price differential between the inner city purchase and one from retailers serving the general market.

Another basic study was done in Arkansas to test the theory that below-market rate ceilings would force credit sellers, such as department stores and appliance dealers, to inflate the cash price. The packing of the cash price would occur regardless of whether the credit seller offered installment sales or issued a retail credit card. Lynch (1968) compared cash prices of identical merchandise in Arkansas and seven other "control" states in the region that did not have low rate ceilings on sales credit. His findings were summarized by a composite price index representing prices on color television, dryers, kitchen ranges, refrigerators and washers, with the composite price in Arkansas set at \$100 for purpose of comparison. The data show very clearly that cash buyers in Arkansas paid significantly higher prices than cash buyers in the control states. (Exhibit 23)⁵⁵ Those findings are consistent with the theory that the higher cash prices were needed in order to subsidize the use of credit.

Exhibit 23
Composite Price Index for Major Appliances
Little Rock, AR = 100

Little Rock, Arkansas	\$100.0
Texarkana, Texas-Arkansas	95.88
Monroe, Louisiana	96.43
Greenville, Mississippi	96.66
Memphis, Tennessee	92.60
Springfield, Missouri	97.05
Tulsa, Oklahoma	93.09
Denver, Colorado	96.72

Source: Lynch, "Consumer Credit at Ten Percent Simple: The Arkansas Case," 1968, p. 599.

Rate ceilings on sales credit clearly do not "protect" credit buyers. Moreover, they force cash buyers, who may not be sufficiently creditworthy to obtain credit, to subsidize other consumers who have been able to obtain credit. Thus, rate ceilings "heap distress," even upon innocent cash buyers.

Whether issuers of bank credit cards, as contrasted to retail credit cards, cause part of the cost of credit to be pushed into cash prices depends on whether the bank issuing the card is out-of-state or in-state. If a national, out-of-state bank has issued a credit card to a resident of a state with restrictive rate ceilings,

⁵⁴ Federal Trade Commission, *Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers* (1968).

⁵⁵ Gene C. Lynch, "Consumer Credit at Ten Per Cent Simple: the Arkansas Case," *Law Forum* (1968), p. 599.

that bank is free to "export" a rate higher than that permitted by the state's rate ceilings. Consumers in that state are already paying higher prices to subsidize credit buyers than would be the case in a free market, but that is a general harm that is not related to the out-of-state credit card.

However, if an *in-state* bank is involved, it must abide by the restrictive rate ceiling of the state. Still, the in-state bank has a number of alternatives to adjust to the restrictive rate ceiling. It may charge an annual fee, do away with the "free" or "grace" period on the card, or increase fees for late payments and over-limit charges. Such adjustments are likely to place the in-state bank at a competitive disadvantage in relation to its out-of-state competitors. A more subtle approach is to increase the discount charged retailers for acquiring their credit-card paper. This is exactly the tactic following by the few banks in Arkansas that issue credit cards. Peterson and Falls (1981) found that the average discount rates on bank credit cards ranged from 2.0 percent in Illinois to 3.3 percent in Wisconsin to 3.6 percent in Louisiana, but they averaged 5.5 percent in Arkansas.⁵⁶ A retailer in Arkansas who sold a \$100 obligation to its bank for \$94.50 would obviously have to raise its cash price in order to realize the same profit on the sales as retailers in other states without restrictive rate ceilings. Since all retailers in Arkansas experienced the same problem, all retailers selling on credit could raise their cash prices to compensate for the higher discount rates paid by the banks.

The easy evasion of rate ceilings on sales credit by shifting all or a portion of the finance charge was captured in an often-quoted passage from Bentham: "As far as prodigality, then, is concerned, I must confess, I cannot see the use of stopping the current of expenditure in this way at the fossset, when there are so many unpreventable ways of letting it run out of the bung-hole."

C. Total consumer credit

In view of the restrictions on the availability of credit, one would expect that consumers in Arkansas would have less credit per household than in the other three control states: Louisiana, Illinois and Wisconsin. That turns out not to be the case.

Overall, the data indicate that Arkansas residents held as much credit as consumers located in the other states. In the aggregate, in fact, the total amount of consumer debt per household held by Arkansas respondents insignificantly exceeded the average amount of consumer debt held by other respondents in the sample.⁵⁷

The explanation for this result is quite simple. Unable to obtain cash credit in the amounts desired, Arkansas consumers took a detour and turned to sales credit. Arkansas residents, especially those with low incomes or in high-risk categories, had significantly less cash credit than borrowers in the other states. This deficiency was offset by increased use of sales credit, whose availability was largely unaffected by rate ceilings. The differences in the ratios of sales credit to cash credit between Arkansas and the control states was highly significant (Exhibit 24).⁵⁸

⁵⁶ Peterson and Falls, *op. cit.*, p. 28.

⁵⁷ *Ibid.*, p. 22.

⁵⁸ *Ibid.*, p. 23.

Exhibit 24
Total Household Debt Holdings, Arkansas vs. Control States

	Arkansas	Other	t-Value
Total consumer debt outstanding per household	\$1,455.71	\$1,367.68	-0.81
Cash credit (excluding credit cards, and dealer-originated credit)	\$605.59	\$846.52	3.28*
Sales credit (including credit cards) as a percentage of total household debt--Average per household	.7286	.5845	-6.22*

* Significantly different at the 10 percent confidence level.

Source: Peterson and Falls, *Impact of Ten Percent Ceiling*, 1981, p. 27.

Finally, in relying on sales credit, Arkansas consumers who had low incomes or were in high-risk categories were much more likely to obtain credit directly from dealers (sellers of autos, household appliances, and so on) than were more affluent consumers, but much less likely to rely on credit card debt, quite possibly because many did not have credit cards. Once again, the least affluent segment of society bore the greatest burden of the regulations that were designed to protect them.

D. Conclusion

Restrictive rate ceilings on cash credit force lenders to deny credit to consumers who pose a high risk or desire only small amounts of credit. These excluded consumers are typically young, have short-time on the job or at their residence, are renters, and are unskilled workers with relatively low incomes. Not only do ceilings ration consumers out of the legal market, but they also drive smaller lenders from the market and thereby diminish competition. Both lenders and consumers find second-best ways around the squeeze imposed by rate ceilings. Where feasible, lenders raise other charges to consumers, and consumers resort to sales or lease credit and various high-cost sources of cash credit, some legal, some not.

Restrictive rate ceilings on sales credit are basically a sham. Denied an adequate return for their credit services, retailers push their shortfall into higher cash prices. Ironically, the higher cash prices adversely affect consumers who have been unable to obtain credit, presumably a group who are less able to afford higher cash prices than the more affluent credit buyers. In-state banks issuing credit cards raise their merchant discounts, an increase that is, again, transmitted to cash buyers through higher prices.

PART IV: CONCLUSIONS

This study has explained the theories underlying the discussion of how credit markets work and the effects upon consumers of government intervention in those markets. Again and again, the data drawn from studies of credit markets with and without restrictive rate ceilings support the theories that have been advanced and accepted by economists over the centuries. The basic conclusions of this study are summarized below.

- The U.S. experience of the past 25 years has validated the faith of the National Commission on Consumer Finance in the power of free and competitive markets to regulate and moderate the price of credit. **The legal ability to raise rates does not correspond to the economic ability to sustain higher rates.** Rates for various types of consumer credit do not necessarily rise to a regulatory ceiling and are less likely to do so, the higher the ceiling. Instead, knowledgeable consumer and unrestricted entry are the economic forces that make credit available at prices commensurate with the costs and risks of providing the credit.
- **In the absence of restrictive rate ceilings, competition expands the range and variety of credit products available to consumers and broadens the risk spectrum of consumers that can benefit from these products.** For example, deregulation of bank credit card rates over the past 15 years spurred entry into the industry and expansion of credit card offers. As a result, both high- and low-risk consumers are now being served within a highly competitive environment where prices adjust to reflect customers' costs and risk.
- **Risk-based pricing, which is difficult or impossible under binding rate ceilings, substantially broadens consumer access to credit.** This is nowhere better demonstrated than in the bank card industry. Deregulation of bank card rates over the past 15 years spurred entry into the industry and expansion of credit card offers. For millions of households who were too risky for bank cards in the 1970s, the rate deregulation of the 1980s gave them access to the most powerful payment mechanism on the planet. Entry spurred dramatic innovations in card features, and ultimately brought us cards that pay us to use them.
- **Risk-based pricing removes the hidden subsidies of high risk borrowers by low risk borrowers, which occurred when all borrowers were charged a rate equal to the average risk of the entire group.** Both groups are served more efficiently when creditors can charge rates commensurate with risk.
- **Restrictive rate ceilings are most harmful to the citizens they were apparently designed to protect.** Regardless of where a ceiling is set, some higher risk consumers needing cash credit are rationed out of the market because the cost of serving them is too high for the creditor to absorb or to pass on as higher rates to lower risk customers. Excluded customers are typically young, have short-time-on-the-job or at their residence, are relatively unskilled workers, have relatively low incomes, or poor credit histories because of past illness or unemployment.
- **Restrictive ceilings on sales credit (credit offered by merchants for purchase of goods or services) are basically a sham.** Denied an adequate return for their credit services, retailers push

their shortfall into higher cash prices. Higher cash prices affect not only customers who borrow, but those who have been unable to get credit, presumably a group who are less able to afford higher cash prices than the more affluent credit buyers.

- **In the end, consumers obtain the credit they need from sources that are inconvenient and at higher prices that do not efficiently reflect cost and risk.**

In short, rate ceilings that are thought to "protect" consumers do not protect consumers and do clear harm to those who are generally at the bottom of the economic ladder. The most reliable way to protect higher risk borrowers is to ensure that they have alternative sources of financing from which to choose. This is accomplished by facilitating the unrestricted entry of new competitors into a market in which the price of credit is free from artificial constraints.

The Cost Structure of the Consumer Finance Industry

Credit Research Center

Working Paper No. 59

Krannert Graduate School of Management – Purdue University

The Cost Structure of the Consumer Finance Industry

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THE COST STRUCTURE OF THE CONSUMER FINANCE INDUSTRY

Erosion of market segmentation in consumer financial services in recent years inevitably raises the issue of future industry structure. If new opportunities to expand produce declining unit costs, a few large firms may come to dominate the market, possibly with adverse effects on market competition. If, in contrast, unit costs do not decline as firms attempt to exploit new opportunities, then large firms do not have a cost advantage. This case will likely produce more firms of various sizes, unless entry is artificially restricted. In such a cost environment, a breakdown of market segmentation should benefit consumers and other users of financial services as they receive the advantages of enhanced competition.

In examining the costs of suppliers of financial services, researchers have focused most of their attention on commercial banks and savings and loan associations (S&Ls).¹ Undoubtedly, the size and importance of these types of financial institutions account for this attention (along with the existence of readily available data), but focusing solely on banks and S&Ls misses much of the picture. Particularly noticeable is the absence of recent studies of consumer finance companies, which hold the second largest share of consumer installment credit (after commercial banks).

The same issues of costs, market structure, and potential competitive impacts that arise concerning banks and S&Ls also surface in the case of the consumer finance industry. Long regarded as specialized and possibly old fashioned, consumer finance companies have recently attracted other institutions' attention because of the finance companies' branch systems, which have always been largely free from regulators' geographical restrictions, and because of their profitability during some difficult times for banks and S&Ls. By themselves these features should focus competitive attention on finance companies' cost structure. More generally, however, as financial-product market segmentation continues to break down, all market participants must become more aware of their own and competitors' costs if they are to survive and prosper.

Despite this, researchers have undertaken relatively few cost studies of the consumer finance industry, especially recently.² The major previous effort was by George Benston (1972b) for the National Commission on Consumer Finance. Benston concluded from his statistical work that since scale economies at the firm level were slim to nonexistent, "large companies, as such, are unlikely to dominate the industry because of a 'natural' cost advantage" (1972b, p. 153).³ This view has become the conventional wisdom and has been consistent with casual observation that both large and small consumer finance companies compete in various markets. The question is whether, more than twenty years later, changing conditions (for example, advances in information and computer technology) might produce a different outcome and another conclusion.

Two possibilities suggest themselves. First, technological changes in both risk management and loan administration in the last quarter century might argue for existence of

¹ For an overview of the research and references, see Clark (1988), Humphrey (1990), or Berger et al. (1993)

² The most recent studies are by Benston (1972b, 1977a, 1977b) using 1968-70 data.

³ Du and McAlister (1977) found similar results in a regional study using a similar methodology.

larger scale economies than in the past. Large firms, for example, might have better access to sophisticated mathematical credit scoring and other new and expensive techniques for credit evaluation. Likewise, larger firms might be better able to afford computerized marketing, record keeping, and collection procedures and equipment. If such techniques and equipment improved the productivity of large firms relatively more than small ones, economies of scale might be more evident recently than decades ago.⁴ Second, if, in contrast, new technology today is as available to small firms as to large, then economies of scale might not be more evident recently than farther in the past, even if large and small firms might both operate more efficiently today. While the former of these two possibilities might seem more likely, certainly the other possibility remains distinctly possible. Ultimately, the issue of scale economies is an empirical question to be answered by appealing to the data.

The purpose of this paper is to estimate the cost function for the consumer finance company industry using a more appropriate functional form than that employed in older studies and using much newer data. This estimation will permit exploration of the issue of scale economies in this industry as well as discussion of costs by size of loan. Both explorations should be useful for analyzing consumer lending because finance company lending activities produce cost data that are relatively uncontaminated by other products and influences.

The remainder of this paper is divided into three sections. Section II discusses the functional form of the estimation equation and describes the data to be used. Section III presents the empirical results, and section IV offers a brief summary and conclusions.

II. Functional Form and Data

Four important questions arise in any attempt to estimate statistical cost relationships: (1) identification of the production or cost function; (2) the proper specification of the production or cost relations; (3) the definition of output; (4) the availability of data appropriate for estimation.

A. Identification

In most cases, estimates of long-run cost curves and scale economies are possible only by using cross sections of firms in an industry. This involves the implicit assumption that the observations trace out the cost curve for a "typical" firm although no one firm is followed over the whole range of output. Bell and Murphy (1968) and Benston (1972a) have argued that a long-run cost function is identified for a cross section of financial firms because it is reasonable to assume that the level of output is exogenous.⁵ Firms do not have access to secret technology or processes which might provide them an inherent production advantage over their rivals. Thus, demand is not cost determined but rather the opposite. Although technological changes in credit granting and marketing functions might appear to suggest that some firms might have a cost advantage, the technology, including automated credit scoring, is well known to all and widely available through credit bureaus. It is still true that each branch office operates in its own

⁴Rogers (1974), Longbrake (1974), and Lawrence and Shay (1986) investigated the effect of computers on the cost of consumer lending using data from commercial banks participating in the Federal Reserve's Functional Cost Analysis Program. The results of these studies suggest that labor and computers were substitutes. They found little or no overall cost savings and no difference in estimates of scale economies attributable to the use of computers. Because of substantial innovation in computer technology since that time, these results are probably dated.

⁵The level of output is not, however, entirely exogenous. Firms can affect demand by advertising and promotions.

local market subject to the vagaries of demand in its own area.⁶ In effect, companies compete in a succession of local markets with basic technology that is known to all. Under these circumstances, local demands for loans determine the level of output. The cost function can be estimated by a single equation using cross-section data on costs and output. This approach seems appropriate and is adopted here.

B. Specification of Cost Relations

The single-product nature of the consumer finance company industry simplifies specification of the cost relationship.⁷ Consumer finance companies are, of course, financial intermediaries that have a source and use of funds, but unlike the depository and insurance-type intermediaries, whose sources of funds (deposits, policies, pension plans) are products in themselves, the consumer finance companies' funds sources (bonds and commercial paper issued locally and on Wall Street) are largely incidental to the lending function, at least in terms of costs. In a cost sense, they are analogous to the legal or data processing departments. They do not exist apart as separate outputs. Since separate cost functions are not required, arbitrary cost allocations are unnecessary. Similarly, if consumer finance companies produce only one product, there can be no output-cost complementarities or scope economies, and scale and scope economies do not confound.⁸

Total operating costs are a function of input prices and output, with output homogeneity and company structure variables to account for differences in types of loans extended and branch structure among companies. The implicit cost relationship is found in equation 1:

$$1. C = f(Q, P, A, \theta)$$

where C is total operating cost, Q is output, P represents input prices, A represents output homogeneity variables (for example, average loan size), and θ represents company structure variables (for example, number of offices).

Concerning the explicit functional form, the empirical model estimated here employs the translog cost function. Essentially, the translog is a quadratic function of the logarithms of its parameters (namely, output quantity, input prices, and other factors affecting cost), which includes all of the cross products to allow for interactions.⁹

⁶ For discussion of the local nature of the market for consumer financial services see Elliehausen and Wolken (1992).

⁷ See Baumol, Panzar, and Willig (1982) for a general discussion of multiproduct cost functions. Clark (1988) and Humphrey (1990) discuss recent studies of costs at depository institutions.

⁸ Traditional cost studies could possibly confound scale economies and differences in X-efficiency of firms operating at different output levels. This potential problem does not appear to be of practical significance, however. Several researchers have estimated scale economies for financial firms using both traditional cost functions and frontier estimation methods and found little or no differences in results from the two approaches (Berger and Humphrey 1991; Bauer et al. 1993; McAlistar and McManus 1993; Mester 1993). For further discussion, see Berger et al. (1993).

⁹ Sometimes, the effects of control variables are of interest as much as the effect of output on cost. For example, the inclusion of average loan size as an output homogeneity variable permits calculation of a cost elasticity with respect to average size of loan.

$$\begin{aligned}
2. \ln C = & a_0 + a_Q \ln Q + \frac{1}{2} b_{QQ} (\ln Q)^2 + a_L \ln P_L + a_K \ln P_K + \frac{1}{2} b_{LL} (\ln P_L)^2 \\
& + \frac{1}{2} b_{KK} (\ln P_K)^2 + b_{LK} \ln P_L \ln P_K + b_{QL} \ln Q \ln P_L + b_{QK} \ln Q \ln P_K + d_A \ln A \\
& + \frac{1}{2} d_{AA} (\ln A)^2 + d_{AQ} \ln A \ln Q + d_{AL} \ln A \ln P_L + d_{AK} \ln A \ln P_K + d_0 \ln 0 \\
& + \frac{1}{2} d_{00} (\ln 0)^2 + d_{AO} \ln A \ln 0 + d_{OQ} \ln 0 \ln Q + d_{OL} \ln 0 \ln P_L + d_{OK} \ln 0 \ln P_K
\end{aligned}$$

The translog cost function to be estimated is shown in equation 2.

where C = total operating cost; Q = output quantity; P_L = price of labor; P_K = price of capital; A = average size of loans made; and 0 = total number of branch offices.

In order to correspond to a well-behaved production function, a cost function must be positively linearly homogeneous in input prices. This theoretical requirement imposes the following restrictions on the parameters of the translog cost function:

$$3. a_L + a_K + b_{QL} + b_{QK} = 0; b_{LL} + b_{LK} = b_{LK} + b_{KK} = 0; d_{AL} + d_{AK} = 0; d_{0L} + d_{0K} = 0$$

The translog is a valid local second-order approximation to an arbitrary cost function.¹⁰ Under reasonable assumptions (nonnegative, real valued, nondecreasing function of output, linearly homogeneous in input prices), the translog is dual to a general production or transformation function, although it is not directly derivable from them (Diewert 1971; Caves, Christensen, and Tretheway 1980).

Because of its greater generality, the translog functional form offers a number of advantages. First, it permits estimation of U-shaped average cost curves. Second, it permits exploration of how factor prices may affect scale economy results (nonhomotheticity). Third, it permits estimation of scale, branch office, and account size economies and allows them to vary by size of institution.¹¹

C. Definition of Output

To estimate a statistical cost function, it is necessary to relate cost measurements directly to measures of the outputs that produce the costs. The output of the consumer finance industry is loans, but a number of potential output measures exist: number of loans made, dollar amount made, number serviced, amount serviced, and total assets devoted to lending. In considering

¹⁰ The translog cost function is flexible at the point of approximation, but it imposes generally a specific structure, namely, a symmetric U-shaped average cost curve. If this assumption does not hold generally, then the cost function would be misspecified, and estimates of scale economies derived from it would be biased. In studies of commercial bank costs, bias in translog estimates of scale economies appears to result largely from differences in the output mixes of small and large banks (McAlister and McManus 1993). This consideration probably would not bias translog estimates of scale economies for consumer finance companies because consumer finance companies produce essentially a single product.

¹¹ Both homogeneity and homotheticity can be imposed on the translog form by constraining the parameters in estimation. Thus, homogeneous, homothetic, and Cobb-Douglas forms can be tested as subsets of the analysis. Tests by the authors (available on request) reject homotheticity and homogeneity and, therefore, the Cobb-Douglas formulation. An important implication is that the percentage change in cost resulting from a given percentage change in output is not the same at different levels of output. In other words, economies of scale are not constant over all output levels.

these possibilities, it seems that costs are more likely to be related to the number of loans rather than amounts of loans or total assets. Many cost-causing activities such as recording and booking loans and payments must be undertaken for each loan and probably vary very little, if at all, with size of loan. This suggests that numbers of loans made or serviced are the candidates for the output variable. Of these, the number serviced seems the more reasonable choice. Most consumer loans require periodic payments (typically monthly), and so both the number of employees and the size of the systems, paperwork, and compliance efforts involve more than just making loans. In fact, it seems that the size or scale of a lending operation is more dependent on the number of loans serviced (which require regular and recurring activities) than on loans made (which are more irregular and discontinuous). Consequently, the output variable employed in this study is number of loans outstanding (that is, serviced) rather than number made. Average size of loans outstanding is included in the regression as an output homogeneity variable. Care and credit checking and some other cost-causing activities of making and servicing a loan are generally greater for larger loans than for smaller loans. Larger loans are also more likely than smaller loans to be secured, a process that creates added costs.

D. Data

Cost data for estimation are from the American Financial Services Association (AFSA), the renamed trade group that supplied finance-company data to Benston in 1972. The AFSA surveyed its finance company members annually between 1960 and 1989 to collect information on the consumer finance industry.¹² Data for 1987-9 were available for this study. Survey schedules include detailed balance sheets, income and expense statements, loan activity, delinquency, and loss reports. Companies providing usable reports numbered 84 to 101 over the three years. These companies ranged from very small, including about one-third single-office companies, to the largest finance companies in the industry. In all, the companies had total assets of \$245-350 billion. Their gross consumer receivables represented 73 to 88 percent of the Federal Reserve's estimate of total consumer credit at consumer finance companies, depending on the year.

For this study, we used data for 51 companies that had greater than 50 percent of their receivables in consumer credit and reported costs in each of the three years. These restrictions ensure that the results reflect the costs of consumer lending rather than business lending or leasing and that any differences among the years are not due to differences in the composition of the samples.¹³

Table I lists the variables used in the statistical estimation and the sample means and standard deviations for these variables. The dependent variable is total annual operating expense excluding losses, advertising (which concerns demand, not production costs), and cost of funds. Independent variables are output (average number of loans serviced during the year), input prices (labor and capital prices), average size of loans serviced, and a structural variable (average number of branch offices). The price of labor for a company is the average annual wage rate, which is calculated as total annual salary and wage expenses including social security and fringe benefits divided by the average number of employees. The price of capital is

¹² These surveys were discontinued after 1989.

¹³ On average, consumer receivables were about 95 percent of the total number of accounts and 90 percent of the total dollar amount of receivables at these companies during 1987-9. The subsample of companies preserves the range of company sizes in the full sample.

the replacement cost per square foot of office buildings. It is computed for each company by weighting regional estimates of the cost of office space compiled by the F.W. Dodge Company (1987-89) by the proportion of the company's offices located in each region. The AFSA's office directory provided the addresses necessary for calculating the weights.

III. Empirical Results

This paper estimates the cost function (equation 2) restricted to be positively linearly homogeneous in input prices (equations 3) jointly with input-demand equations (equations 4 and 5 below). The input demand equations are obtained by differentiating the translog cost function with respect to the input prices, P_L and P_K :¹⁴

$$4. \quad \partial \ln C / \partial \ln P_L = S_L = a_{LL} + b_{LL} \ln P_L + b_{LK} \ln P_K + b_{QL} \ln Q + d_{AL} \ln A + d_{OL} \ln O$$

and

$$5. \quad \partial \ln C / \partial \ln P_K = S_K = a_{KK} + b_{KK} \ln P_K + b_{LK} \ln P_L + b_{QK} \ln Q + d_{AK} \ln A + d_{OK} \ln O$$

where S_L and S_K are the cost shares of labor and capital. This procedure is recommended by Christensen and Green (1976) because the input-demand equations add degrees of freedom without adding any unrestricted regression parameters, resulting in more efficient parameter estimates than would be obtained by estimation the cost function alone.¹⁵

Random disturbance terms are added to the cost function and input-demand functions. We assume that the disturbances are correlated across equations but not across firms (see Zellner 1962). Because cost shares must sum to unity, one of the input-demand equations is redundant. The capital input-demand equation is therefore dropped, and the cost function and labor input-demand function are estimated jointly using the iterated version of Zellner's seemingly unrelated regression procedure. This procedure produces maximum likelihood estimates of the parameters, which are invariant to which one of the input-demand equations is dropped (Kmenta and Gilbert 1968).

Table II presents results of estimation. According to the likelihood-ratio test, the estimated cost and input-share equations are significant in each of the three years 1987-89. Adjusted R-squares of the cost functions are between 0.980 and 0.988.

A. Estimates of Economies of Scale

Economies of scale are measured as the percentage change in cost resulting from a small percentage change in output. There are two types of estimates of scale economies, which involve different assumptions about the relationship between costs and outputs, that have been derived for financial institutions (see Benston, Hanweck, and Humphrey 1982).

¹⁴ This result is known as Shephard's lemma (Shephard 1953).

¹⁵ In other recent studies of financial firms' costs, Benston, Hanweck, and Humphrey (1982) and Gilligan, Smirlock, and Marshall (1983) estimated only cost functions. Mester (1987) and Kim and Zion (1989), on the other hand, estimated cost functions jointly with input-demand equations.

A simple scale economies measure is the cost elasticity when the number of production facilities (offices) does not change as output varies. An augmented scale economies measure allows the number of offices to vary along with output.

1. Simple Scale Economies. The simple scale economies measure (SCE) is derived by differentiating the translog cost function with respect to output.

$$6. \text{ SCE} = \frac{\partial \ln C}{\partial \ln Q} = a_Q + b_{QQ} \ln Q + b_{QL} \ln P_L + b_{QK} \ln P_K + d_{AQ} \ln A + d_{OQ} \ln O$$

SCE values less than one indicate the presence of scale economies; values equal to one indicate constant costs; and values more than one indicate diseconomies of scale.

Equation 6 indicates that scale economies depend on the level of factor prices, average account size, and number of offices as well as output. For estimates of the simple scale economies measure, we hold all variables constant except output. In the first three columns of table III, SCE is computed at various levels of output for 1987-9. Means of the third output quintile are assumed for P_L , P_K , A , and O . These SCE estimates can be viewed as scale economies facing a "typical" medium-sized firm.¹⁶

Estimates of the simple scale economies measure suggest that there are economies of scale in operating costs of consumer finance companies and that these scale economies diminish as output increases. For a medium-sized firm operating at low levels of output, SCE estimates indicate that a 10 percent increase in output raises costs about 4-6 percent in the 0.6-3.4 thousand accounts output range. Scale economies gradually fall from the second to the fourth output quintiles; a 10 percent increase in output raises costs about 5-7 percent in the second quintile and about 7-9 percent in the fourth quintile. In the fifth quintile, economies of scale appear to be exhausted. Estimates of the scale economies measure generally are not significantly less than one for the fifth quintile.¹⁷

2. Augmented Scale Economies. To allow adjustment of the number of offices for the level of output, Benston, Hanweck, and Humphrey (1982) developed an augmented scale economies measure. They defined the augmented scale economies measure as

$$7. \text{ SCE}^* = \text{SCE} + (\partial \ln C / \partial \ln O) / (\partial \ln O / \partial \ln Q),$$

where $\partial \ln C / \partial \ln O$ is a measure of office economies and $\partial \ln O / \partial \ln Q$ indicates the change in offices associated with a change in output. Again, values less than one indicate the presence of scale economies; values equal to one indicate constant costs; and values more than one indicate diseconomies of scale.

For the translog function, the measure of office economies is

¹⁶ On average, firms in the third output quintile had 47 offices

¹⁷ As mentioned, these estimates of scale economies apply to the medium-sized firms in terms of number of offices. Different values of SCE would be obtained if the number of offices were different, although the finding of significant scale economies would generally hold. The assumption that firms keep the number of offices constant may be appropriate in the short run, but it probably is unrealistic over longer periods of time. Firms might avoid diseconomies of scale by opening additional offices, or to the extent allowed by the size of their geographic markets, they may realize scale economies by consolidating accounts in a smaller number of offices.

$\frac{\partial \ln C}{\partial \ln O} = d_0 + d_{0O} \ln O + d_{0Q} \ln Q + d_{0L} \ln P_L + d_{0K} \ln P_K + d_{A0} \ln A$. We estimate the change in offices associated with a change in output, $\frac{\partial \ln O}{\partial \ln Q}$, by the regression $\ln O = e_0 + e_1 \ln Q + e_2 (\ln Q)^2$.

To estimate SCE*, we use the same output levels that were used for estimates of the simple scale economies measure and the appropriate mean number of offices for each quintile. Factor prices and average account size are held constant; we use means of the third output quintile for P_L , P_K , and A to maintain comparability with estimates of the simple scale economies measure.

The augmented scale economies measure provides a better indication of scale economies facing the firm. None of the estimates of the augmented scale economies measure shown in the last three columns of table III is significantly less than one. This result suggests that firms can adjust the number of offices to exploit all scale economies. According to these estimates, even relatively small firms are able to operate at approximately constant costs. None of the estimates of the augmented scale economies measure is significantly greater than one either, which suggests that firms can also adjust the number of offices to avoid diseconomies of scale.

3. Discussion. As mentioned, the simple scale economies measure SCE indicates the effect on cost of changes in the level of output for a fixed number of offices and thus can be viewed as a measure of economies of scale at the office level. The augmented scale economies measure SCE* allows the number of offices to vary as well as the level of output and can be viewed as a measure of scale at the firm level. The finding of economies of scale at the office level (SCE) but not at the firm level (SCE*) is consistent with Benston's earlier findings. Thus, our analysis indicates Benston's findings are robust, despite the simplifying assumptions implicit in his methodology. Although we find economies of scale at the office level, our estimates indicate that these economies decrease as output increases.¹⁸

A. Cost Elasticity of Average Loan Size

We also estimated cost elasticities of average loan size, which show relationship between operating costs and the average size of loans in creditors' portfolios. An elasticity less than one suggests that firms producing smaller loans have higher costs per dollar of credit than firms producing larger loans. Such might be the case if some expenses of consumer credit—for example, recording and booking loans and payments—are relatively constant and not related to the size of the loan.

For the translog cost function, the cost elasticity of average loan size (SCA) is

$$SCA = \frac{\partial \ln C}{\partial \ln A} = d_A + d_{AA} \ln A + d_{AQ} \ln Q + d_{AL} \ln P_L + d_{AK} \ln P_K + d_{A0} \ln O$$

Like SCE and SCE*, SCA depends on the values assumed for number of loans outstanding, factor prices, and number of offices as well as average loan size. We assume average values of

¹⁸ An appendix to an earlier version of this paper updates Benston's estimations using data from the more recent period. The estimated scale economies at the office and firm levels for 1987-89 using Benston's methods are similar to Benston's 1968-70 estimates. A copy of this appendix is available from the authors on request.

Q , p_L , P_K , and 0 . Values chosen for A lie between the 10th and 90th percentile of the sample distribution of average loan size.

Estimates of SCA shown in table IV are significantly less than one for most average loan sizes, suggesting that smaller loans are indeed relatively more expensive to produce than larger loans. At an average loan size of \$2,210 (the median average loan size in the sample), for example, a 10 percent increase in average loan size would increase costs about 1.5-3.0 percent, or about 1 percent for a \$1 increase in average loan size. At an average loan size of \$8,620 (the 90th percentile), estimated values of SCA indicate that a 10 percent increase in average loan size would increase costs about 4.5-5.0 percent, which is about 0.5 percent for a \$1 increase in average loan size.

Our finding that operating costs at finance companies rise less than proportionately with increases in average loan size is similar to results of earlier studies.¹⁹ Unlike earlier studies (which constrained cost elasticities of average loan size to a constant value because they used Cobb-Douglas cost functions), our estimates of the cost elasticity of average loan size rise as average loan size increases. This result seems reasonable. Firms may evaluate credit applications more carefully, take collateral, monitor more frequently, and make greater efforts to collect overdue accounts on larger loans than on smaller loans.

IV. Conclusions

Scale economies are an important factor determining the structure of an industry. If scale economies exist, an industry may come to be dominated by a few large firms. Such an outcome would reduce the cost of providing a product, but it could also adversely affect competition. Research conducted in the early 1970s concluded that significant scale economies existed in the consumer finance industry at the office but not at the firm level. The results suggested that although larger finance companies were not more efficient than smaller finance companies, firms could nevertheless have reduced costs by consolidating business in fewer offices. This anomaly results from the use of a restrictive functional form, the Cobb-Douglas cost function, which limits estimates of scale economies to a constant value. Consequently, estimates of scale economies may not reflect the cost relationships at all levels of output.

This study uses the more general transcendental logarithmic functional form and newer data to investigate scale economies in the consumer finance industry. The results reject the restrictive assumptions of the Cobb-Douglas cost function. Significant scale economies are found at the office level, and these scale economies decline as output increases. Thus, increasing office volume beyond a certain number of accounts (for the "typical" medium-sized firm of Table III about 1 million accounts in 47 offices) yields no additional savings in operating costs. The finding of a limit to the size of offices is an important difference from previous estimates of scale economies that relied on the Cobb-Douglas formulation.

At the firm level, neither significant economies nor diseconomies of scale are detected throughout most of the range of output levels in the industry. This finding-----together with the finding of significant, decreasing scale economies at the office level-----is consistent with the

¹⁹ For 1968-70, Benston (1972b) estimated cost elasticities of average loan size between 0.391 and 0.592 depending on year; and in a regional study, Durkin and McAlister (1977) obtained average loan size cost elasticities between 0.293 and 0.504 for 1968-73.

view that finance companies are generally able to adjust their offices to exploit scale economies or avoid scale diseconomies. Size of firm does not confer a cost advantage.

Failure to find scale economies at the firm level (and the finding of decreasing scale economies at the office level) suggests that the benefits technological change in the lending business over the past two decades have not exclusively accrued to the benefit of larger firms. There have been, of course, important developments in office automation equipment, but these do not appear to have generated significant scale economies in consumer lending at finance companies. Likely, the availability of smaller and smaller computers with ever greater computing power at lower and lower cost has been important in this respect. Today office automation equipment is within the budget of even the smallest companies. Similarly, sophisticated mathematical credit evaluation systems have become with the reach of even the smallest firms in recent years with the development of generic scoring-model results that are available instantaneously from credit bureaus with routine purchase of individual credit reports. It is not obvious that large firms have any decided advantage in this area either.

Our results also confirm earlier findings that operating costs rise less than proportionately with average loan size (Table IV). This result suggests that smaller loans are relatively more expensive to produce than larger loans. However, we also find that the relative savings in operating costs decline as loan size increases, probably because firms incur greater costs for credit evaluation, obtaining collateral, monitoring, and collection for larger loans than for smaller loans.

In sum, our findings for consumer finance companies are consistent with most of the recent evidence on scale economies at other financial institutions, which find little or no evidence of economies or diseconomies of scale. We find that smaller finance companies do not operate at a cost disadvantage to larger finance companies. Despite advances in information and computer technology, many of the activities associated with loan acquisition and maintenance may still be labor intensive and not provide much scope for scale economies. It is also likely that personal computers are accessible to even the smallest finance companies, so that any cost savings from this source would be available to all. Thus, operating costs would not lead to consolidation in the consumer finance industry.

The implications of these findings are that public policies that promote competition better serve customers than those that might seek cost savings by restricting entry or encouraging consolidation of firms.

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Table I
Descriptive Statistics

Mean (standard deviation)

Variable	1987	1988	1989
Operating cost, excluding losses, advertising, and cost of funds; in thousands of dollars (C)	145,244.8 (388,211.7)	158,032.7 (381,124.0)	173,154.8 (397,775.9)
Output, average of number of accounts and notes outstanding at the beginning and end of the year, in thousands (Q)	569.0 (1,413.2)	600.9 (1,447.1)	629.8 (1,442.7)
Price of labor, annual wage and salary expense divided by average of number of employees at the beginning and end of the year, in thousands of dollars (P _L)	25.2 (6.3)	25.8 (6.7)	27.0 (6.4)
Price of capital, replacement cost per square foot for office buildings, in dollars (P _K)	82.1 (8.6)	88.2 (11.8)	93.6 (10.9)
Average size of loans serviced, average of the dollar amount to the number of accounts and notes outstanding at the beginning and the end of the year, in thousands of dollars (A)	3.2 (2.8)	3.5 (3.2)	3.7 (3.6)
Number of branch offices, average of the number of offices at the beginning and end of the year (O)	189.9 (280.6)	204.9 (317.7)	204.0 (317.1)

Table II
Cost Function Parameter Estimates
(Standard errors in parentheses)

Variable and Parameter		1987	1988	1989
Constant	(a ₀)	1.548 (.110)**	1.580 (.095)**	1.606 (.104)**
lnQ	(a _q)	.730 (.087)**	.638 (.077)**	.589 (.084)**
(lnQ) ²	(b _{qq})	.071 (.066)	.060 (.044)	.045 (.046)
lnP _L	(a _l)	.769 (.068)**	.863 (.050)**	.876 (.070)
lnP _L lnP _K	(b _{LK})	-.149 (.046)**	-.202 (.032)**	-.191 (.047)**
lnP _Q lnP _L	(b _{QL})	-.077 (.016)**	-.067 (.012)**	-.054 (.012)**
lnA	(d _A)	.288 (.127)*	.202 (.122)	.180 (.122)
(lnA) ²	(d _{AA})	.138 (.174)	.161 (.149)	.110 (.161)
lnAlnQ	(d _{AQ})	-.041 (.084)	.002 (.007)	.086 (.081)
lnAlnP _L	(d _{QL})	-.044 (.027)	-.067 (.021)**	-.078 (.022)**
lnAlnO	(d _{AO})	-.007 (.099)	-.037 (.082)	-.102 (.097)
lnO	(d _o)	.274 (.121)*	.387 (.108)**	.409 (.119)**
(lnO) ²	(d _{oo})	.079 (.098)	.071 (.069)	.115 (.077)

lnOlnQ	(d _{oQ})	-.072 (.070)	-.065 (.044)	-.077 (.046)
lnO lnP _L	(d _{oL})	.071 (.018)**	.058 (.014)**	.045 (.014)**
Adjusted R-square		.980	.985	.988
Likelihood ration		87.945	87.807	84.347

*/** Coefficient is significantly different from zero at the 95/99 percent confidence level.

Table III

Estimated Scale Economy Coefficients By Output Level and Output Quintile

Output level, in thousands	Simple scale economy Coefficients (SCE) ¹			Augmented scale economy Coefficients (SCE*) ²		
	1987	1988	1989	1987	1988	1989
First quintile						
.6	.462	.438*	.438*	1.001	1.007	1.017
.7	.473	.447*	.455*	.998	1.005	1.011
3.4	.585*	.543**	.517**	.972	.987	.962
Second quintile						
4.8	.610*	.564**	.532**	.981	.988	.978
6.2	.628*	.579**	.543**	.978	.985	.971
14.1	.687*	.628***	.581**	.970	.979	.946
Third quintile						
23.5	.724*	.660**	.604**	.991	.980	.993
38.2	.758**	.689**	.626**	.985	.976	.978
88.0	.818**	.739**	.663**	.979	.970	.954
Fourth quintile						
191.0	.873*	.786**	.698**	.987	.966	.978
236.1	.888	.799**	.708**	.985	.964	.971
780.0	.974	.871	.762*	.981	.960	.938
Fifth quintile						
1,236.8	1.007	.899	.783*	.982	.956	.941
1,839.9	1.035	.923	.801	.982	.955	.931
5,645.0	1.115	.991	.851	.985	.955	.903

1. Evaluated at mean values of P_L, P_K, A, and 0 in the third output quintile.

2. Evaluated at mean values of P_L, P_K, and A for the third output quintile and quintile means of 0.

*/** Coefficient is significantly less than one at the 95/99 percent confidence level.

Table IV

**Cost Elasticity of Average Loan Size
By Average Loan Size**

Average loan size, in thousands of dollars ¹	Cost elasticity of average Loan size (SCA) ²		
	1987	1988	1989
.98	.153**	.146**	.211**
1.38	.200**	.201**	.249**
2.21	.265*	.277**	.300**
4.52	.363	.392**	.379**
8.62	.452	.496*	.449**

1 Values of A are selected points of the sample distribution of average loan size between the 10th and 90th percentiles.

2. Evaluated at mean values of P_L , P_K , A , and O for the third output quintile.

* / ** Coefficient is significantly less than one at the 95/99 percent confidence level.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 227(L&C)
 (H) Publish Date: 3/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Alaska Small Loans Act RDU Banking & Securities (536)
 Component Banking & Securities
 Sponsor Labor and Commerce
 Requester Labor and Commerce Component No. 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	3.0	3.0	3.0	3.0	3.0	3.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation implements several provisions to the Alaska Small Loans Act (AS 06.20). It raises the maximum loan amount from \$25,000 to \$50,000 and removes the 36 percent maximum rate for loans less than \$850.00 and the blended rates for loans over \$850.00. The bill has the most impact on loans over \$10,000 by imposing an interest cap on loans to 24 percent. Currently there is no maximum limit on interest rates on loans over \$10,000. In addition, the cap of 24 percent extends to loans up to \$50,000.

Prepared by: Mark Davis, Director Phone: 907.465.2521
 Division: Banking and Securities Date/Time: 3/16/06 3:19 PM
 Approved by: William C. Noll, Commissioner Date: 3/16/2006
 Agency: Commerce, Community, and Economic Development

HB

232

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:

3340 Badger Road, Suite 290
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4721




Session Contact:
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

Memorandum

Date: April 29, 2005

To: Representative Lesil McGuire
Judiciary Committee Chair

From: Representative John Coghill 

Re: HB 232 "An Act relating to property crimes."

I am requesting that HB 232 be scheduled for hearing at your earliest convenience. I have attached backup information. Thank you for your consideration.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 30, 2005

SUBJECT: HB 232 - Sectional Summary (Work Order No. 24-LS0381A)

TO: Representative John Coghill

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have requested a sectional summary of the above-described bill. Please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Sections 1 - 13 of the bill make corresponding amendments to theft and property offenses. The Alaska criminal code differentiates between levels of theft and property offenses based upon the value of the property taken, altered, damaged, or destroyed. These values were set when the criminal code was recodified in 1978. Generally, the levels are from lowest to highest: less than \$50 is a class B misdemeanor; \$50 to less than \$500 is a class A misdemeanor; \$500 to less than \$25,000 is a class C felony; \$25,000 or more is class B felony. Sections 1 - 13 adjust the valuations for the class A misdemeanor and class C felony offenses by changing the \$500 limit to \$2,500. Thus class A misdemeanors, which used to include property valuations of \$50 - \$499, are now \$50 - \$2,499 under the bill and class C felonies, which used to include property valuations of \$500 to \$24,999, are now \$2,500 to \$24,999.

Section 14 provides an applicability section.

GPL:med
05-326.med

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MEMORANDUM

January 17, 2005

SUBJECT: Monetary Amounts Differentiating Theft Offenses
(Work Order No. 24-LS0381)

TO: Representative John Coghill
Attn: Willow

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You requested a bill draft to raise the amount of monetary loss required for felony theft from \$500 to \$2,500. In discussing this request with Willow I informed her that this same monetary limit of \$500 applies to numerous other property type offenses to differentiate between felony and misdemeanor offenses. Merely changing the theft offenses might lead to some anomalous results, such as a person steals \$500 in cash from a business and gets a misdemeanor while a person shoplifts merchandise with a value of \$500¹ gets a felony. A person who writes a bad check in the amount of \$500,² engages in credit card fraud in the amount of \$500, commits criminal mischief (damages property) in the amount of \$500,³ misapplies property in the amount of \$500,⁴ steals a vehicle and causes damage to the owner in the amount of \$500,⁵ fraudulently uses an access device to obtain property or services in the amount of \$500,⁶ commits unlawful possession of property and the value of the property is \$500,⁷ removes identification marks on property

¹ AS 11.46.220.

² AS 11.46.280.

³ AS 11.46.482.

⁴ AS 11.46.620.

⁵ AS 11.46.360.

⁶ AS 11.46.285.

⁷ AS 11.46.270.

Representative John Coghill
January 17, 2005
Page 2

with a value of \$500,⁸ would also receive a felony while a person merely convicted of one of the theft offenses⁹ would only receive a misdemeanor.

My point is that all of these crimes against property are interrelated and were designed by the legislature to equally punish persons who cause equal monetary damage to their victims. That said the \$500 limit was selected by the legislature in 1978 and due to inflation represents a much lower limit than it did at that time. Raising the limit as you suggest seems perfectly reasonable but if you wish to make that change it might be wise to make the same change to each of the property crimes listed in this memorandum.

GPL:lmb
05-003.lmb

⁸ AS 11.46.260.

⁹ See AS 11.46.100.

Willow Seay

From: Doug Wooliver [dwooliver@courts.state.ak.us]
Sent: Wednesday, April 13, 2005 10:21 AM
To: Willow Seay
Subject: RE: HB 232

Good morning, Willow. Sorry for taking so long to get back with you but I have been trying to get some idea of how this would impact the courts. This will definitely save us time and money. What I have been unable to figure out is how much of either. I will probably submit an indeterminate negative fiscal note saying that the bill will save us money but that we don't have a way to quantify the amount. I have checked with the Department of Law to see if they have some idea of savings and they don't have that kind of information either. I will check with the Public Defender Agency to see if any of the statistics they have will help us with this.

Doug

-----Original Message-----

From: Willow Seay [mailto:Willow_Seay@legis.state.ak.us]
Sent: Tuesday, April 05, 2005 3:50 PM
To: dwooliver@courts.state.ak.us
Subject: HB 232

Doug,

Would you please take a look at HB 232 and let our office know what the court system thinks about the bill. Our intent is to ease up the system and am hoping that you could give some insight as to whether or not that would be the case.

Thank you,

Willow Seay
Legislative Aide
Rep. John Coghill