



Office of Government Affairs

May 8, 2006

Montana Economic Affairs Interim Committee
Representative Jim Keane, Chair
P.O. Box 201706
Helena, MT 59620-1706

Re: draft credit freeze legislation

Dear Representative Keane:

I am writing on behalf of ChoicePoint Inc. to offer comment concerning the on-going interim work to draft a “credit security freeze” bill. ChoicePoint is a Georgia-based, publicly traded company with employees in Bozeman. ChoicePoint provides information, identification, verification, and fraud prevention tools to insurance companies, employers, financial institutions, local, state and federal law enforcement agencies, and local, state, and federal government agencies.

ChoicePoint has concerns about the potential use of certain terms in the bill draft which could significantly and negatively alter the application and scope of the bill.

As you are undoubtedly aware, the public policy and legislative intent of “credit security freeze” legislation, dating back to its first passage in California, is to allow a consumer to “freeze” access to their credit report by third parties in credit transactions as an identity theft prevention tool.

The early laws – California, Vermont, Louisiana - all reflect this public policy and legislative intent, providing for a “freeze” on a consumer’s credit report, as do subsequent laws passed in states such as Connecticut, Washington, North Carolina, and Illinois.

ChoicePoint’s concerns extend from the application of the “security freeze” to a “consumer report” in lieu of the term “credit report.”

While this distinction may appear insignificant or technical in nature, the use of the term “consumer report” instead of “credit report” would legislate requirements on consumer reports which have no credit data and are not used for credit-granting purposes, and on companies who are not credit reporting agencies and who do not maintain, collect, or



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house consumer credit data. In short, a credit report is a consumer report under the federal Fair Credit Reporting Act, but not all consumer reports involve credit data.

ChoicePoint provides various underwriting tools and information to insurers that are regulated as “consumer reports” by the federal Fair Credit Reporting Act. Most notable is our C.L.U.E. report, a claims loss history report. A C.L.U.E. report does not contain consumer credit information nor is it used for credit-granting purposes. Additionally, ChoicePoint provides employment and residential background screening services, which includes criminal and other non-credit information.

However, ChoicePoint is not a “credit reporting agency.” ChoicePoint does not maintain or house credit files or credit data on individual consumers. Further, ChoicePoint does not sell or produce credit reports that are utilized by third parties in consumer applications for credit cards, loans, or any retail consumer credit purchase.

For ChoicePoint and other consumer reporting agencies who are not credit reporting agencies, using the term “consumer report” would extend the “freeze” to reports which have no credit data, are not used for credit-granting purposes, and many of which are used for fraud prevention and public safety purposes. Thus, to legislate a freeze capability would allow the fraud prevention tool to become a fraud enabling tool. The only reason a consumer would want or need to “freeze” their criminal history or C.L.U.E. report is to hide nefarious information, or to commit insurance fraud. Otherwise, these reports have no value to identity thieves for credit or financial information.

Other states - notably South Dakota, Utah, Kansas, Wisconsin, Texas, Kentucky, Louisiana, and Colorado - have reconciled the “consumer report” versus “credit report” issue with appropriate definitional and other language clarifying the scope and purpose of a “security freeze.” I am including relevant examples of those laws for your review and consideration.

I would be happy to meet or speak with you at your convenience. I can be reached at 770-752-3383 during the day, and by email at Jon.Burton@ChoicePoint.com.

Sincerely,

Jon Burton, Assistant Vice President
State Government Relations

Cc: Pat Murdo
Bart Campbell



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Suggested Language #1 (Texas, South Dakota, Utah, Kansas, Wisconsin, Kentucky laws; MN, IL bills)

(X) "Security freeze" means a restriction placed on a consumer report at the request of the consumer that prohibits a consumer reporting agency from releasing all or any part of the consumer's consumer report or any information derived from the consumer's consumer report relating to the extension of credit without the express authorization of the consumer.

Suggested Language #2 (Kansas, Louisiana, Florida, Nevada laws).

(X) The following persons or entities are not required to place a security freeze on a consumer report in accordance with this Part:

* * * *

(x) any database or file which consists of information concerning, and used for, one or more of the following: criminal record information, personal loss history information, fraud prevention or detection, tenant screening, or employment screening.

Suggested Language #3 (Colorado, South Dakota, Kansas, Wisconsin, North Carolina, Kentucky, Florida laws; IL, NH, VT, AZ, HI bills)

(X) The provisions of this section shall not apply to the use of a consumer report by or for any of the following:

* * * *

(x) Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes.