



February 18, 2005

Senator Vickie Cocchiarella, Chair
Senate Business and Labor Committee

Testimony in support of HB 732, legislation related to identity theft

Madame Chair and members of the committee, thank you for the opportunity to testify on one of the top concerns of our members in Montana. My name is Claudia Clifford, advocacy consultant for AARP Montana, a nonpartisan organization with 143,000 members in Montana.

Prior to the session we conducted a membership survey. Our members said overwhelming that among their top concerns are *fear of being a victim of identity theft*, and *concern about the safety and security of their pension/retirement savings*. In the member survey, 61% of our members thought identity theft needed to be a top priority for the Legislature.

In the last 11 months, AARP and the Montana Senior Citizens Association traveled the state putting on over two dozen senior fraud seminars and 22 law enforcement trainings where we heard many stories from Montanans who experienced identity theft:

- o People whose identities are stolen can spend months or years, and a great deal of money, cleaning up the mess thieves have made of their good name and good credit.
- o In the meantime, victims may lose job opportunities, be refused loans for housing or cars, or even get arrested for crimes they did not commit.

Recently, three major business have been in the news for practices that resulted in thousands of people experiencing the horror of identity theft:

- **ChoicePoint** revealed in February that identity thieves had gained access to **145,000** consumer profiles.
- **LexisNexis** admitted earlier this month that a similar incident had placed **32,000** people at risk.
- **Bank of America** said in recent weeks it had lost a shipment containing sensitive details of **1.2 million** government customers, including a number of US Senators.

Identity is a huge, rapidly growing problem. This bill addresses protections to help protect sensitive information from identity thieves. The record destruction, computer

security breach, business information disclosure sections, and penalty section are critical steps to protecting consumers. This bill provides these important protections in ways that are NOT provided by other federal or state laws.

The sponsor is asking the committee to consider a number of amendments to the bill. Although these amendments significantly weaken the consumer protections in the bill, AARP Montana would like to see something done on this issue rather than nothing. With the amendments, the definition of personal information, which sets out the scope of the bill, is limited to bank account information. By deleting the reference to "other financial information", this bill will no longer cover information related to investment accounts, retirement accounts, pension plans, medical savings accounts, credit history, and other financial information not necessarily held by banks. The amendments to section 8, further exempt banks from the requirement to track when they give out personal information. This is critical for investigators who need to trace how thieves obtained the information. In addition, we do not support the proposed amendments to the penalty section of the bill. Prohibiting class action suits makes little sense because most of these cases involve large numbers of people and filing cases individually will be difficult. Capping damages will not be a deterrent to the kind of large businesses at fault for this activity.

We encourage the Attorney General and legislators to continue looking at this issue. We need strong identity theft laws to help consumers avoid some of the terrific problems that result. We urge your support of HB 732.