



Illinois | New Jersey | New York | Ohio | Oregon

Brian D. Flick
Direct Dial: (513) 645-3488
Facsimile: (216) 373-0536
Email: bflick@dannlaw.com

Brian D. Flick, Esq.
Ohio State Chair, National Association of Consumer Advocates
Partner, DannLaw
Proponent Testimony for HB 386
House Financial Institutions, Housing, and Urban Development Committee

Good morning, Chairman Dever, Representative Smith and members of the Committee. My name is Brian Flick and I am pleased to have the opportunity to offer proponent testimony on House Bill 386. I appear before you today as both the managing partner of the Cincinnati office of DannLaw, one of Ohio's leading consumer law firms and as the Ohio State Chair of the National Association of Consumer Advocates (NACA). NACA is a national nonprofit association comprised of more than 1,500 private, public sector, and legal services attorneys, law professors, and law students whose primary focus is protecting and representing consumers, particularly those of modest means. As active and aggressive consumer advocates I and NACA's entire membership are eager to add our voice to the many other respected individuals and groups who support this important and much-needed legislation.

By ensuring that Ohioans can freeze and unfreeze their credit reports at no cost, HB 386 represents both a reasonable and necessary response to the catastrophic Equifax data breach that came to light on September 17, 2017. As we now know, Equifax inexplicably waited six weeks to inform the public that the breach, which was caused by the company's failure to protect the data in its possession, had occurred in early July. As a result, hackers had unfettered access to the drivers' license and social security numbers, medical records, employment histories, and other personal information of more than 143 million Americans. That means at least half the citizens of Ohio, half the people in this room, half the members of the committee, are now at risk of having their identities stolen and their credit ruined by cyber-criminals—all because a huge and hugely profitable company was reckless and negligent.

But Equifax hasn't cornered the market on recklessness. In the three months following the largest data breach in history, Sonic, Whole Foods, Forever 21, and Uber have also been hacked. Although these breaches were not on the same scale as the Equifax data theft, taken together they clearly demonstrate two things: first, that corporations and credit reporting agencies cannot be trusted to protect the data in their possession, and second, that the time has come to enact state and federal regulations that will force these firms to act responsibly.

That, however, is a topic for another hearing on another day. Today, we are focused on what can be done to help consumers deal with the consequences of the recent hacks and those that will

Mailing Address
PO Box 6031040
Cleveland, Ohio 44103

Writer's Office Location
810 Sycamore Street, 3rd Floor
Cincinnati, Ohio 44103

DannLaw.com
[877] 475-8100

almost surely occur in the months and years to come. While there are a number of steps consumers can and should take to protect themselves, experts agree on one thing: anyone whose personal information may have been compromised should immediately contact Equifax and the other credit reporting agencies, TransUnion and Experian, and place a security freeze on their credit report.

Why is this important? Because when a cyber-criminal attempts to use a stolen Social Security number and address to apply for credit in a consumer's name, the lender will attempt to obtain a credit report before doing anything else. If the report cannot be retrieved because of the freeze, the thief's efforts will be thwarted. To apply for credit, a consumer simply notifies the agencies to temporarily "unfreeze" their credit report so a lender can run a check. When that process is complete the consumer refreezes their report.

The process while cumbersome, is highly effective. Unfortunately, the fees reporting agencies are permitted to charge each time a credit report is frozen or unfrozen discourages many consumers from using this valuable tool. Yes, the fee is relatively small, but those fees can add up quickly for two reasons: each person in a household must request a separate freeze and the freeze will have to be kept in place in perpetuity because social security numbers, which never change, are now floating around in cyberspace where they can be used by criminals again and again for years to come.

Here's an example. One of my clients is a 27-year old from Beechwood who, unbeknownst to him, was a victim of the Equifax breach. He woke up one October and found that a Sports Illustrated subscription he had not ordered had been charged to his credit card. Luckily, the bank that issued his credit card immediately reversed the charge. To ensure that other unauthorized charges weren't made, he immediately contacted the three credit reporting agencies and froze his credit at a cost of \$15.

Clearly, that was the responsible thing to do. Here's the problem: he's only 27 which means anytime he wants to buy a car or a house or apply for a credit card, or buy furniture on installment he'll have to unfreeze his credit at a cost of \$15, refreeze his credit at a cost of \$15, then unfreeze it and refreeze it multiple times each year for the next forty or fifty years. Over the course of his life he will have to spend thousands of dollars to protect himself, all because he was a victim of a major corporation's negligence—a corporation, I would note, that he, like the millions of other victims, never chose to do business with.

Given the scope of the Equifax and other breaches, hundreds of thousands, perhaps millions of Ohioans will find themselves in the same situation as my client. As a result, tens of millions of dollars that could have been used to fuel economic growth and create jobs in your districts will instead generate huge profits for the credit reporting agencies, including the one responsible for the crisis. That makes every Ohioan a victim of Equifax's negligence—including Ohioans who

haven't even been born.

That's just wrong, which makes enacting HB 386 the right thing to do because the five dollar fees the bill erases will add millions to Ohio's economy in the years ahead.

Here is another reason why passage of HB 386 is critically important for our state: the federal government is not going to lift a finger to help. Last month I had the opportunity to participate in Consumer Justice Lobby Day on behalf of NACA. While the legislators I met with said they were dismayed and outraged by Equifax's actions none were prepared to pledge support for reforms to the Fair Credit Reporting Act that would protect consumers and hold corporations accountable when they mishandle personal information.

In the absence of a response from the federal government, the bi-partisan sponsors of HB 386 are to be commended for ensuring that Ohioans will have the ability to protect themselves by taking control of their credit reports. I urge the committee and the General Assembly to quickly consider and pass this legislation.

Again, thank you for giving me the opportunity to appear before you today. I will be happy to answer any questions you may have.

Sincerely,



Brian D. Flick, Esq.
DannLaw