

**OPENING REMARKS OF THE HONORABLE RUBEN HINOJOSA
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS. CONSUMER CREDIT
COMMITTEE ON FINANCIAL SERVICES
H.R. 3997, THE “FINANCIAL DATA PROTECTION ACT OF 2005”**

Chairman Bachus and Ranking Member Sanders,

I want to express my sincere appreciation for you holding this important and timely hearing today. It is my hope that this Subcommittee and the Full Committee will consider holding additional hearings on the legislation before we proceed to markup. Perhaps today’s hearing will allow us to discuss related legislation that has been referred to this Committee.

If not, I would ask that additional hearings, or perhaps a roundtable, be held to compare and contrast HR 3997 with other data security legislation before this Committee as well as some of the different state laws enacted to protect data from being breached and possibly used to steal a person’s identity.

I make this request because the Texas statute addressing identity theft is more stringent than the legislation that we are discussing here today. Is the federal government really taking this issue seriously when states are passing laws that are more rigorous?

I understand that many people do not distinguish between data breaches and identity theft, and that not all data breaches lead to identity theft.

I also understand why many are calling for a uniform national standard governing data brokers and the services they provide. I support the idea of such uniform standards, but only if the statute we enact first and foremost protects the consumers and grants them as many avenues of recourse as possible if their identity is stolen as a result of a data breach.

Under the Texas statute, if I felt my identity had been compromised, I would simply send a letter by certified mail to the consumer reporting agency requesting that it place a security freeze on my consumer file. The consumer reporting agency would have five business days to comply with my request. The agency would be required to send me an explanation of how to go about placing, removing, and temporarily lifting my security freeze.

If I were to decide to lift the freeze, the consumer reporting agency would have to remove the freeze no later than the third business day after it received my request. I would be able to make my request to lift the freeze in writing via certified mail or by telephone using certain identifiers. I believe that it is necessary to note that the Texas statute permits the consumer reporting agencies to charge consumers for the cost of the freeze up to a designated cap.

Therefore, I do not believe that the Texas statute constitutes an unfunded mandate.

Mr. Chairman, there is much more to the Texas statute, but my time is limited. Therefore, I ask unanimous consent to insert into the official hearing record Chapter 20 of the Texas Business & Commerce Code; Regulation of Consumer Credit Reporting Agencies; Definitions; 20.1.

All this to say Mr. Chairman that although I support a uniform standard governing the protection of sensitive consumer information and the duty to provide notice when such information is compromised, I believe that HR 3997 falls short of that goal. I would hope that we can fine tune the bill's definition of "breach," "sensitive personal information," the Gramm-Leach-Bliley provision and others to ensure that we protect consumers as much as possible.

Texas has enacted a very tough, pro-consumer identity theft statute, and I feel that this committee must do the same, if not more, to protect and represent our constituents.

Having said that, I yield back the remainder of my time.