

b. (1) The remainder of the assessment shall be allocated one-half to local exchange telephone utilities and one-half to the following:

- a. (a) Interexchange carriers.
- b. (b) Centralized equal access providers.
- c. (c) Alternative operator services companies.

2. (2) The assessment shall be levied allocated proportionally based upon revenues from all intrastate regulated, deregulated, and exempt telephone services under sections 476.1 and 476.1D.

3. The ~~telephone utilities~~ telecommunications carriers shall remit the assessed amounts quarterly to a special fund, as defined under section 8.2, subsection 9. The moneys in the fund are appropriated solely to plan, establish, administer, and promote the relay service and equipment distribution programs.

4. The ~~telephone utilities~~ telecommunications carriers subject to assessment shall provide the information requested by the board necessary for implementation of the assessment.

5. The local exchange telephone utilities shall not recover from intrastate access charges any portion of such utilities assessment imposed under this section.

Approved April 6, 2005

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## CHAPTER 18

### IDENTITY THEFT

S.F. 270

**AN ACT** relating to identity theft including criminal violations and damages recoverable in a civil action, providing for forfeiture of property and for certain rights of financial institutions, and providing for civil remedies.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

Sec. 2. Section 714.16B, Code 2005, is amended to read as follows:

714.16B IDENTITY THEFT — CIVIL CAUSE OF ACTION.

In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, or a financial institution on behalf of an account holder suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover all of the following:

- 1. One Five thousand dollars or three times the actual damages, whichever is greater.
- 2. Reasonable costs incurred due to the violation of section 715A.8, including all of the following:

- a. Costs for repairing the victim's credit history or credit rating.
- b. Costs incurred for bringing a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim.

c. Punitive damages, attorney fees, and court costs.

For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 3. Section 715A.8, subsection 1, Code 2005, is amended to read as follows:

1. a. For purposes of this section, "identification information" ~~means includes, but is not limited to,~~ the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

b. For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 4. Section 715A.8, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Violations of this section shall be prosecuted in any of the following venues:

- a. In the county in which the violation occurred.
- b. If the violation was committed in more than one county, or if the elements of the offense were committed in more than one county, then in any county where any violation occurred or where an element of the offense occurred.
- c. In the county where the victim resides.
- d. In the county where the property that was fraudulently used or attempted to be used was located at the time of the violation.

NEW SUBSECTION. 6. Any real or personal property obtained by a person as a result of a violation of this section, including but not limited to any money, interest, security, claim, contractual right, or financial instrument that is in the possession of the person, shall be subject to seizure and forfeiture pursuant to chapter 809A. A victim injured by a violation of this section, or a financial institution that has indemnified a victim injured by a violation of this section, may file a claim as an interest holder pursuant to section 809A.11 for payment of damages suffered by the victim including costs of recovery and reasonable attorney fees.

NEW SUBSECTION. 7. A financial institution may file a complaint regarding a violation of this section on behalf of a victim and shall have the same rights and privileges as the victim if the financial institution has indemnified the victim for such violations.

NEW SUBSECTION. 8. Upon the request of a victim, a peace officer in any jurisdiction described in subsection 5 shall take a report regarding an alleged violation of this section and shall provide a copy of the report to the victim. The report may also be provided to any other law enforcement agency in any of the jurisdictions described in subsection 5.

Approved April 6, 2005