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### **Testimony on Senate Bill 141**

Chair Prozanski, members of the committee, my name is Peter Threlkel; I am the Director of the Corporation Division for the Secretary of State's office, here to talk to you today about Senate Bill 141.

According to a study by Dunn & Bradstreet, the business research company, in the next year 21 percent of businesses will change their CEO, 20 percent will change their address, 18 percent will change their phone number, and 17 percent will change their business name. Many others will change their officers or other information reported in government records. Business information is dynamic, constantly changing and requires frequent updating with government agencies like the Secretary of State.

Business identity theft is a new and growing problem nationally that happens when criminals pose as owners, officers or employees of a business to illegally get cash, credit and loans, leaving the victimized business with the debts. Laws to protect individuals from identity theft often do not provide the same protections to businesses.

While fraud against business takes many forms, business identity theft typically involves a criminal trying to file a bogus report with the Secretary of State to manipulate state business filings and then fraudulently obtain lines of credit in the name of the business. These fraudsters attempt to change the registered business address, appoint new officers, or change registered agent information on file with the state. Using altered records which appear to indicate that they have the authority to act on behalf of a victim business, the criminals will apply for credit accounts with various retailers.

Cases of business identity theft have been confirmed in at least 26 states. However the exact number of business identity thefts is not clear as victimized businesses are often reluctant to come forward and there is no central repository for collecting this information.

Since first becoming aware of this growing problem, our office partnered with the Identity Theft Protection Association and the National Association of Secretaries of State to create public awareness and help businesses understand the crime and reduce their risk of business identity theft. We are also developing tools to allow a business to receive electronic notification of changes to their business registration allowing business to monitor and be aware of any authorized or unauthorized changes to their records. Additional security features and protocols are also being implemented, including the ability to detect when invalid or phony addresses are submitted.

While Oregon has yet to become a target for the kind of widespread business identity theft seen in other states, the same vulnerability exploited in other states exists here and it is only a matter of time before criminals prey on Oregon companies.

Senate Bill 141 is part of a comprehensive and proactive strategy to combat this new type of crime, by providing the Secretary of State and businesses additional options to deter, prevent and help prosecute business identity theft and fraud to protect Oregon businesses. Similar steps have already been taken in California, Colorado and Georgia. Specifically, the bill

- Allows the Secretary of State to disclose financial and security tracking information to assist a criminal justice agency investigation or prosecution without a subpoena.

While the falsified record is evidence of the crime, quite often financial and other transactions records are the best leads for law enforcement when tracking down the criminals and bringing them to justice.

- Deters business identity theft by increasing the penalty for submitting a false document to the Secretary of State from a Class B to Class A misdemeanor.

Currently, only business corporations, nonprofit corporations and limited liability companies are provided some protection in Oregon law, where filing a false document is a Class B misdemeanor. SB 141 increases the penalty to a Class A misdemeanor and extends the protection to all other Oregon business entities creating a stronger deterrent to business identity theft.

- Allows the Secretary of State to reject business registrations that use an anonymous mail drop address to hide the true location of the principal office or registered agent address.

The point of a principal place of business or registered agent address is to be able to contact the business or agent in person. This is not possible when the business is shielding its true location by using a virtual office or phony address. Technology exists to prevent this deception and the Secretary of State should have the authority to prevent the use of these addresses in business registration filings with the state.

- Allows an authorized representative of a business a process to correct or withdraw an unauthorized business registration filing.

The law currently allows a business to correct or withdraw an incorrect or unauthorized business registration filing but only if requested by the person who submitted the original filing. This poses a problem for legitimate business owners when the document was filed by an unauthorized party. SB 141 allows

the business owner a simplified procedure to correct a bogus or unauthorized filing.

- Includes business entity in the definition of a person covered under Oregon ID Theft law, ORS 646A.600.

When the Oregon Identity Theft Protection Act (SB 583) was approved by this committee and the legislature in 2007, business identity theft was an unknown crime. While businesses are responsible for protecting the information of their customers and employees, those same protections are not available to the businesses themselves if they are organized as corporations, limited liability companies or other entities,

Senate Bill 141 will help protect Oregon small business from business identity theft, and send a clear message to criminals that Oregon has strong protections for business in place and cooperates fully with law enforcement to prosecute criminals. There is no fiscal impact.

Thank you for allowing my testimony. I will be happy to answer any questions that you have.