

1 HB173
2 124212-1
3 By Representative Bridges
4 RFD: Financial Services
5 First Read: 08-MAR-11

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8 SYNOPSIS: Existing law does not allow a consumer who
9 is a victim of identity theft to place a security
10 freeze on his or her consumer credit accounts.

11 This bill would provide for procedures for
12 placing, removing, and temporarily lifting a
13 security freeze on a consumer credit account. This
14 bill would provide for fees and fines for
15 violations. This bill would provide for notice to
16 consumers.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

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22 Relating to protection from identity theft; to
23 provide for security freezes on consumer credit accounts; to
24 provide for definitions; to provide for procedures for
25 placing, removing, and temporarily lifting a security freeze;
26 to provide for fees; to provide for fines for violations; and
27 to provide for notice to consumers.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. As used in this section, the following
3 terms shall have the following meanings:

4 (1) CONSUMER. A natural person residing in this
5 state.

6 (2) CONSUMER CREDIT REPORT. A consumer report, as
7 defined in 15 U.S.C. §1681a(d), that a consumer reporting
8 agency furnishes to a person which it has reason to believe
9 intends to use the information as a factor in establishing the
10 consumer's eligibility for credit to be used primarily for
11 personal, family, or household purposes.

12 (3) CONSUMER CREDIT REPORTING AGENCY. Any person
13 who, for monetary fees, dues, or on a cooperative nonprofit
14 basis, regularly engages in whole or in part in the practice
15 of assembling or evaluating consumer credit information or
16 other information on consumers for the purpose of furnishing
17 consumer credit reports to third parties.

18 (4) NORMAL BUSINESS HOURS. Any day between the hours
19 of 8:00 A.M. and 9:30 P.M., Central Standard Time.

20 (5) PERSON. Any individual, partnership,
21 corporation, trust, estate, cooperative, association,
22 government or governmental subdivision or agency, or other
23 entity.

24 (6) PROPER IDENTIFICATION. Information generally
25 deemed sufficient to identify a person for consumer reporting
26 agency purposes under 15 U.S.C. §1681 et seq.

1 (7) SECURITY FREEZE. A restriction placed on a
2 consumer credit report at the request of the consumer that
3 prohibits a consumer credit reporting agency from releasing
4 all or any part of the consumer's consumer credit report or
5 any information derived from the consumer's consumer credit
6 report for a purpose relating to the extension of credit
7 without the express authorization of the consumer.

8 Section 2. (a) A consumer may place a security
9 freeze on the consumer's credit report by making a request in
10 writing by certified mail to a consumer credit reporting
11 agency. No later than 30 days after the effective date of this
12 act, a consumer credit reporting agency shall make available
13 to consumers an Internet based method of requesting a security
14 freeze and a toll-free telephone number for consumers to use
15 to place a security freeze, temporarily lift a security
16 freeze, or completely remove a security freeze. A security
17 freeze shall prohibit, subject to exceptions in subsection
18 (m), the consumer credit reporting agency from releasing the
19 consumer's credit report or credit score without the prior
20 express authorization of the consumer as provided in
21 subsection (d) or (e). Nothing in this subsection shall
22 prevent a consumer credit reporting agency from advising a
23 third party that a security freeze is in effect with respect
24 to the consumer's credit report.

25 (b) A consumer credit reporting agency shall place a
26 security freeze on a consumer's credit report no later than

1 three business days after receiving the consumer's written
2 request sent by certified mail.

3 (c) The consumer credit reporting agency shall send
4 a written confirmation of the security freeze to the consumer
5 within 10 business days of placing the security freeze and at
6 the same time shall provide the consumer with a unique
7 personal identification number or password, other than the
8 consumer's Social Security number, to be used by the consumer
9 when providing authorization for the release of the consumer's
10 credit report for a specific period of time.

11 (d) If the consumer wishes to allow the consumer's
12 credit report to be accessed for a specific period of time
13 while a security freeze is in place, the consumer shall
14 contact the consumer credit reporting agency through the
15 contact method established by the consumer credit reporting
16 agency, request that the security freeze be temporarily
17 lifted, and provide all of the following:

18 (1) Proper identification.

19 (2) The unique personal identification number or
20 password provided by the consumer credit reporting agency
21 pursuant to subsection (c).

22 (3) The proper information regarding the time period
23 for which the report shall be available to users of the
24 consumer credit report.

25 (4) The proper payment as may be required by the
26 consumer credit reporting agency.

1 (e) A consumer credit reporting agency shall develop
2 procedures involving the use of telephone, facsimile, the
3 Internet, or other electronic media to receive and process a
4 request from a consumer to temporarily lift a security freeze
5 on a consumer credit report pursuant to subsection (d).

6 (f) A consumer credit reporting agency that receives
7 a request from a consumer to temporarily lift a security
8 freeze on a consumer credit report pursuant to subsection (d)
9 or (e) shall comply with the request as follows:

10 (1) No later than three business days after
11 receiving a written request.

12 (2) Within 15 minutes after the request and payment
13 are received by telephone or electronically by the contact
14 method chosen by the consumer reporting agency during normal
15 business hours and the request includes the consumer's proper
16 identification, correct personal identification number or
17 password, and the proper payment as may be required by the
18 consumer credit reporting agency.

19 (g) A consumer reporting agency need not remove a
20 security freeze within 15 minutes, as specified in subdivision
21 (2) of subsection (f), if either of the following occurs:

22 (1) The consumer fails to satisfy the requirements
23 of subsection (d).

24 (2) The consumer credit reporting agency's ability
25 to remove the security freeze within 15 minutes is prevented
26 by the following:

1 a. An act of God, including earthquakes, hurricanes,
2 storms, or similar natural disaster or phenomenon, or fire.

3 b. Unauthorized or illegal acts by a third party,
4 including terrorism, sabotage, riot, vandalism, labor strikes
5 or disputes disrupting operations, or similar occurrence.

6 c. Operational interruption, including electrical
7 failure, unanticipated delay in equipment or replacement part
8 delivery, computer hardware or software failures inhibiting
9 response time, or similar disruption.

10 d. Governmental action, including emergency orders
11 or regulations, judicial or law enforcement action, or similar
12 directives.

13 e. Regularly scheduled maintenance or updates,
14 during other than normal business hours, to the consumer
15 reporting agency's systems.

16 f. Commercially reasonable maintenance of, or repair
17 to, the consumer reporting agency's systems that is unexpected
18 or unscheduled.

19 g. Receipt of a removal request outside of normal
20 business hours.

21 (h) A consumer credit reporting agency shall only
22 remove or temporarily lift a security freeze placed on a
23 consumer's credit report upon any of the following
24 circumstances:

25 (1) Upon the consumer's request, in compliance with
26 the requirements of this section.

1 (2) If the consumer's credit report was frozen due
2 to a material misrepresentation of fact by the consumer. If a
3 consumer credit reporting agency intends to remove a security
4 freeze upon a consumer's credit report pursuant to this
5 paragraph, the consumer credit reporting agency shall notify
6 the consumer in writing prior to removing the security freeze
7 on the consumer's credit report.

8 (i) If a third party requests access to a consumer
9 credit report on which a security freeze is in effect and this
10 request is in connection with an application for credit or any
11 other use related to the extension of credit and the consumer
12 does not allow the consumer's credit report to be accessed for
13 that specific period of time, the third party may treat the
14 application as incomplete.

15 (j) If a consumer requests a security freeze
16 pursuant to this section, the consumer credit reporting agency
17 shall disclose to the consumer the process of placing and
18 temporarily lifting a security freeze and the process for
19 allowing access to information from the consumer's credit
20 report for a specific period of time while the security freeze
21 is in place.

22 (k) A security freeze shall remain in place until
23 the consumer requests that the security freeze be removed. A
24 consumer credit reporting agency shall remove a security
25 freeze within three business days of receiving a request for
26 removal from the consumer. The consumer shall provide all of
27 the following:

1 (1) Proper identification.

2 (2) The unique personal identification number or
3 password provided by the consumer credit reporting agency
4 pursuant to subsection (c).

5 (3) The proper fee as may be required by the
6 consumer credit reporting agency.

7 (1) A consumer credit reporting agency shall require
8 proper identification of the person making a request to place,
9 temporarily lift, or remove a security freeze.

10 (m) By way of example only, and not intending to be
11 exclusive, this section shall not apply to the use of a
12 consumer credit report by any of the following:

13 (1) A person, or the person's subsidiary, affiliate,
14 agent, subcontractor, or assignee with whom the consumer has,
15 or prior to assignment had, an account, contract, or
16 debtor-creditor relationship for the purposes of reviewing the
17 active account or collecting the financial obligation owing
18 for the account, contract, or debt.

19 (2) A subsidiary, affiliate, agent, assignee, or
20 prospective assignee of a person to whom access has been
21 granted under subsection (d) for purposes of facilitating the
22 extension of credit or other permissible use.

23 (3) Any person acting pursuant to a court order,
24 warrant, or subpoena.

25 (4) A state or local agency, or its agents or
26 assigns, which administers a program for establishing and
27 enforcing child support obligations.

1 (5) A state or local agency, or its agents or
2 assigns, acting to investigate fraud, including Medicaid
3 fraud; acting to investigate or collect delinquent taxes or
4 assessments, including interest, penalties, and unpaid court
5 orders; or acting to fulfill any of its other statutory
6 responsibilities.

7 (6) A federal, state, or local governmental entity,
8 including a law enforcement agency, court, or its agents or
9 assigns.

10 (7) Any person for the use of a credit report for
11 purposes permitted under 15 U.S.C. §1681b(c).

12 (8) Any person for the sole purpose of providing a
13 credit file monitoring subscription service to which the
14 consumer has subscribed.

15 (9) Any person for the purpose of providing a
16 consumer with a copy of the consumer's credit report or credit
17 score upon the consumer's request.

18 (10) Any depository financial institution for
19 checking, savings, and investment accounts.

20 (11) Any person or entity for insurance purposes,
21 including use in setting or adjusting a rate, adjusting a
22 claim, or underwriting.

23 (n) If a security freeze is in place, a consumer
24 credit reporting agency shall not change any of the following
25 official information in a credit report without sending a
26 written confirmation of the change to the consumer within 30
27 days of the change being posted to the consumer's file: Name,

1 date of birth, Social Security number, and address. Written
2 confirmation shall not be required for technical modifications
3 of a consumer's official information, including name and
4 street abbreviations, complete spellings, or transposition of
5 numbers or letters. In the case of an address change, the
6 written confirmation shall be sent to both the new address and
7 the former address.

8 (o) The following persons shall not be required to
9 place a security freeze in a consumer credit report pursuant
10 to this section, provided, however, that any person not
11 required to place a security freeze on a consumer credit
12 report under the provisions of subdivision (3) shall be
13 subject to any security freeze placed on a consumer credit
14 report by another consumer credit reporting agency from which
15 it obtains information:

16 (1) A check services or fraud prevention services
17 company, including reports on incidents of fraud, or
18 authorizations for the purpose of approving or processing
19 negotiable instruments, electronic funds transfers, or similar
20 methods of payment.

21 (2) A deposit account information service company
22 which issues reports regarding account closures due to fraud,
23 substantial overdrafts, automated teller machine abuse, or
24 other similar negative information regarding a consumer to
25 inquiring banks or other financial institutions for use only
26 in reviewing a consumer request for a deposit account at the
27 inquiring bank or financial institution.

1 (3) Resellers of consumer credit report information
2 that assemble and merge information contained in a database of
3 one or more consumer credit reporting agencies and do not
4 maintain a permanent database of consumer credit information
5 from which new consumer credit reports are produced.

6 (4) A consumer credit reporting agency's database or
7 file which consists of information concerning, and used for,
8 one or more of the following:

- 9 a. Criminal record information.
- 10 b. Fraud prevention or detection.
- 11 c. Personal claim loss history information.
- 12 d. Employment, tenant, or individual background
13 screening.

14 (p) This section shall not prevent a consumer credit
15 reporting agency from charging a fee of no more than three
16 dollars (\$3) to a consumer for each security freeze placement,
17 any permanent removal of the security freeze, or any temporary
18 lifting of the security freeze for a period of time. A
19 consumer credit reporting agency shall not charge a person age
20 65 years or over for the placement of a security freeze. A
21 consumer credit reporting agency shall not charge any fee to a
22 victim of identity theft who has submitted a copy of a valid
23 investigative or incident report or complaint with a law
24 enforcement agency about the unlawful use of the victim's
25 identifying information by another person that was filed with
26 the law enforcement agency no more than 90 days prior to the
27 consumer's request for a security freeze. A consumer credit

1 reporting agency may charge a fee of no more than five dollars
2 (\$5) to a consumer for each replacement of a unique personal
3 identification number or password.

4 (q) A person that violates this section may be fined
5 not more than one hundred dollars (\$100) for a violation
6 concerning a specific consumer.

7 Section 3. At any time that a consumer is required
8 to receive a summary of rights required by 15 U.S.C. §1681g(d)
9 of the federal Fair Credit Reporting Act, the consumer shall
10 also be provided with the following notice:

11 "Alabama Consumers Have the Right to Obtain a
12 Security Freeze. You have a right to place a security freeze
13 on your credit report, which will prohibit a consumer
14 reporting agency from releasing information in your credit
15 report without your express authorization. A security freeze
16 must be requested in writing by certified mail or by
17 electronic means as provided by a consumer reporting agency.
18 The security freeze is designed to prevent credit, loans, and
19 services from being approved in your name without your
20 consent. If you are actively seeking a new credit, loan,
21 utility, telephone, or insurance account, you should
22 understand that the procedures involved in lifting a security
23 freeze may slow your applications for credit. You should plan
24 ahead and lift a freeze in advance of actually applying for
25 new credit. When you place a security freeze on your credit
26 report, you will be provided a personal identification number
27 or password to use if you choose to remove the freeze on your

1 credit report or authorize the release of your credit report
2 for a period of time after the freeze is in place.

3 "To provide that authorization you must contact the
4 consumer reporting agency and provide all of the following:

5 "(1) Your personal identification number or
6 password.

7 "(2) Proper identification to verify your identity.

8 "(3) The proper information regarding the period of
9 time for which the report shall be available. A consumer
10 reporting agency must authorize the release of your credit
11 report no later than 15 minutes after receiving the above
12 information if the request is by electronic means or by
13 telephone, or no later than three business days when a written
14 request is submitted.

15 "A security freeze does not apply to a person or
16 entity, or its affiliates or collection agencies acting on
17 behalf of the person or entity, with which you have an
18 existing account, that requests information in your credit
19 report for the purposes of reviewing or collecting the
20 account. Reviewing the account includes activities related to
21 account maintenance. You have a right to bring civil action
22 against anyone, including a consumer reporting agency, who
23 improperly obtains access to a file, knowingly or willfully
24 misuses file data, or fails to correct inaccurate file data.
25 Unless you are a victim of identity theft with a police report
26 or other official document acceptable to a consumer reporting
27 agency to verify the crimes, or you are 65 years of age or

1 older, a consumer reporting agency has the right to charge you
2 a fee of no more than three dollars (\$3) to place a freeze on
3 your credit report."

4 Section 4. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.