

1 HB15  
2 124212-8  
3 By Representative Bridges  
4 RFD: Financial Services  
5 First Read: 07-FEB-12  
6 PFD: 09/15/2011

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

3           (5) PERSON. Any individual, partnership,  
4 corporation, trust, estate, cooperative, association,  
5 government or governmental subdivision or agency, or other  
6 entity.

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

10          (7) SECURITY FREEZE. A restriction placed on a  
11 consumer credit report at the request of the consumer that  
12 prohibits a consumer credit reporting agency from releasing  
13 the consumer's consumer credit report for a purpose relating  
14 to the extension of credit without the express authorization  
15 of the consumer.

16          Section 2. (a) A consumer may place a security  
17 freeze on the consumer's credit report by making a request in  
18 writing by certified mail to a consumer credit reporting  
19 agency. No later than 30 days after the effective date of this  
20 act, a consumer credit reporting agency shall make available  
21 to consumers an Internet based method of requesting a security  
22 freeze and a toll-free telephone number for consumers to use  
23 to place a security freeze, temporarily lift a security  
24 freeze, or completely remove a security freeze. A security  
25 freeze shall prohibit, subject to exceptions in subsection

1 (m), the consumer credit reporting agency from releasing the  
2 consumer's credit report or credit score without the prior  
3 express authorization of the consumer as provided in  
4 subsection (d) or (e). Nothing in this subsection shall  
5 prevent a consumer credit reporting agency from advising a  
6 third party that a security freeze is in effect with respect  
7 to the consumer's credit report.

8 (b) A consumer credit reporting agency shall place a  
9 security freeze on a consumer's credit report no later than  
10 three business days after receiving the consumer's written  
11 request sent by certified mail.

12 (c) The consumer credit reporting agency shall send  
13 a written confirmation of the security freeze to the consumer  
14 within 10 business days of placing the security freeze and at  
15 the same time shall provide the consumer with a unique  
16 personal identification number or password, other than the  
17 consumer's Social Security number, to be used by the consumer  
18 when providing authorization for the release of the consumer's  
19 credit report for a specific period of time.

20 (d) If the consumer wishes to allow the consumer's  
21 credit report to be accessed for a specific period of time  
22 while a security freeze is in place, the consumer shall  
23 contact the consumer credit reporting agency through the  
24 contact method established by the consumer credit reporting

1 agency, request that the security freeze be temporarily  
2 lifted, and provide all of the following:

3 (1) Proper identification.

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

7 (3) The proper information regarding the time period  
8 for which the report shall be available to users of the  
9 consumer credit report.

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

12 (e) A consumer credit reporting agency shall develop  
13 procedures involving the use of telephone, the Internet, or  
14 other electronic media to receive and process a request from a  
15 consumer to temporarily lift a security freeze on a consumer  
16 credit report pursuant to subsection (d).

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

21 (1) No later than three business days after  
22 receiving a written request.

23 (2) Within 15 minutes after the request and payment  
24 are received by telephone or electronically by the contact  
25 method chosen by the consumer reporting agency during normal

1 business hours and the request includes the consumer's proper  
2 identification, correct personal identification number or  
3 password, and the proper payment as may be required by the  
4 consumer credit reporting agency.

5 (g) A consumer reporting agency need not temporarily  
6 lift a security freeze within 15 minutes, as specified in  
7 subdivision (2) of subsection (f), if either of the following  
8 occurs:

9 (1) The consumer fails to satisfy the requirements  
10 of subsection (d).

11 (2) The consumer credit reporting agency's ability  
12 to temporarily lift the security freeze within 15 minutes is  
13 prevented by the following:

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

16 b. Unauthorized or illegal acts by a third party,  
17 including terrorism, sabotage, riot, vandalism, labor strikes  
18 or disputes disrupting operations, or similar occurrence.

19 c. Operational interruption, including electrical  
20 failure, unanticipated delay in equipment or replacement part  
21 delivery, computer hardware or software failures inhibiting  
22 response time, or similar disruption.

23 d. Governmental action, including emergency orders  
24 or regulations, judicial or law enforcement action, or similar  
25 directives.

1           e. Regularly scheduled maintenance or updates,  
2 during other than normal business hours, to the consumer  
3 reporting agency's systems.

4           f. Commercially reasonable maintenance of, or repair  
5 to, the consumer reporting agency's systems that is unexpected  
6 or unscheduled.

7           g. Receipt of a request outside of normal business  
8 hours.

9           (h) A consumer credit reporting agency shall only  
10 remove or temporarily lift a security freeze placed on a  
11 consumer's credit report upon any of the following  
12 circumstances:

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

15           (2) If the consumer's credit report was frozen due  
16 to a material misrepresentation of fact by the consumer. If a  
17 consumer credit reporting agency intends to remove a security  
18 freeze upon a consumer's credit report pursuant to this  
19 paragraph, the consumer credit reporting agency shall notify  
20 the consumer in writing prior to removing the security freeze  
21 on the consumer's credit report.

22           (i) If a third party requests access to a consumer  
23 credit report on which a security freeze is in effect and this  
24 request is in connection with an application for credit or any  
25 other use related to the extension of credit and the consumer

1 does not allow the consumer's credit report to be accessed for  
2 that specific period of time, the third party may treat the  
3 application as incomplete.

4 (j) If a consumer requests a security freeze  
5 pursuant to this section, the consumer credit reporting agency  
6 shall disclose to the consumer the process of placing and  
7 temporarily lifting a security freeze and the process for  
8 allowing access to information from the consumer's credit  
9 report for a specific period of time while the security freeze  
10 is in place.

11 (k) A security freeze shall remain in place until  
12 the consumer requests that the security freeze be removed. A  
13 consumer credit reporting agency shall remove a security  
14 freeze within three business days of receiving a request for  
15 removal from the consumer. The consumer shall provide all of  
16 the following:

17 (1) Proper identification.

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

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

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



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

4           (m) This section shall not apply to the use of a  
5 consumer report by any of the following persons or entities.  
6 The persons and entities exempt from this section include but  
7 are not limited to:

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

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

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

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

23           (5) A state or local agency, or its agents or  
24 assigns, acting to investigate fraud, including Medicaid  
25 fraud; acting to investigate or collect delinquent taxes or

1 assessments, including interest, penalties, and unpaid court  
2 orders; or acting to fulfill any of its other statutory  
3 responsibilities.

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

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

9 (8) Any person for the sole purpose of providing a  
10 credit file monitoring subscription service to which the  
11 consumer has subscribed.

12 (9) Any person for the purpose of providing a  
13 consumer with a copy of the consumer's credit report or credit  
14 score upon the consumer's request.

15 (10) Any depository financial institution for  
16 checking, savings, and investment accounts.

17 (11) Any person or entity for insurance purposes,  
18 including use in setting or adjusting a rate, adjusting a  
19 claim, or underwriting.

20 (n) If a security freeze is in place, a consumer  
21 credit reporting agency shall not change any of the following  
22 official information in a credit report without sending a  
23 written confirmation of the change to the consumer within 30  
24 days of the change being posted to the consumer's file: Name,  
25 date of birth, Social Security number, and address. Written

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

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

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

20 (2) A deposit account information service company  
21 which issues reports regarding account closures due to fraud,  
22 substantial overdrafts, automated teller machine abuse, or  
23 other similar negative information regarding a consumer to  
24 inquiring banks or other financial institutions for use only

1 in reviewing a consumer request for a deposit account at the  
2 inquiring bank or financial institution.

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

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

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

16 (p) This section shall not prevent a consumer credit  
17 reporting agency from charging a fee of no more than ten  
18 dollars (\$10) to a consumer for each security freeze  
19 placement, any permanent removal of the security freeze, or  
20 any temporary lifting of the security freeze for a period of  
21 time. A consumer credit reporting agency shall not charge a  
22 person age 65 years or over for the placement of a security  
23 freeze. A consumer credit reporting agency shall not charge  
24 any fee to a victim of identity theft who has submitted a copy  
25 of a valid investigative or incident report or complaint with

1 a law enforcement agency about the unlawful use of the  
2 victim's identifying information by another person that was  
3 filed with the law enforcement agency no more than 90 days  
4 prior to the consumer's request for a security freeze. A  
5 consumer credit reporting agency may charge a fee of no more  
6 than five dollars (\$5) to a consumer for each replacement of a  
7 unique personal identification number or password.

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

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

15 "Alabama Consumers Have the Right to Obtain a  
16 Security Freeze. You have a right to place a security freeze  
17 on your credit report, which will prohibit a consumer  
18 reporting agency from releasing information in your credit  
19 report without your express authorization. A security freeze  
20 must be requested in writing by certified mail or by  
21 electronic means as provided by a consumer reporting agency.  
22 The security freeze is designed to prevent credit, loans, and  
23 services from being approved in your name without your  
24 consent. If you are actively seeking a new credit, loan,  
25 utility, telephone, or insurance account, you should

1 understand that the procedures involved in lifting a security  
2 freeze may slow your applications for credit. You should plan  
3 ahead and lift a freeze in advance of actually applying for  
4 new credit. When you place a security freeze on your credit  
5 report, you will be provided a personal identification number  
6 or password to use if you choose to remove the freeze on your  
7 credit report or authorize the release of your credit report  
8 for a period of time after the freeze is in place.

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

11 "(1) Your personal identification number or  
12 password.

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

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

21 "A security freeze does not apply to a person or  
22 entity, or its affiliates or collection agencies acting on  
23 behalf of the person or entity, with which you have an  
24 existing account, that requests information in your credit  
25 report for the purposes of reviewing or collecting the

1 account. Reviewing the account includes activities related to  
2 account maintenance. Unless you are a victim of identity theft  
3 with a police report or other official document acceptable to  
4 a consumer reporting agency to verify the crimes, or you are  
5 65 years of age or older, a consumer reporting agency has the  
6 right to charge you a fee of no more than ten dollars (\$10) to  
7 place a freeze on your credit report."

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 14-MAR-12.

Greg Pappas  
Clerk

Senate	16-MAY-12	Amended and Passed
House	16-MAY-12	Concurred in Senate Amendment