

1 A bill to be entitled
2 An act relating to security of protected consumer
3 information; creating s. 501.0051, F.S.; providing
4 definitions; authorizing the representative of a
5 protected consumer to place a security freeze on the
6 protected consumer's consumer record; requiring a
7 consumer reporting agency to establish a record if the
8 protected consumer does not have an existing consumer
9 report; requiring a consumer reporting agency to
10 provide written confirmation of a security freeze
11 within a specified period; prohibiting a consumer
12 reporting agency from stating or implying that a
13 security freeze reflects a negative credit history or
14 rating; requiring a consumer reporting agency to
15 remove a security freeze under specified conditions;
16 providing for applicability; authorizing a consumer
17 reporting agency to charge a fee for placing or
18 removing a security freeze and for reissuing personal
19 identification information; prohibiting a fee under
20 certain circumstances; requiring written notification
21 to change specified information in a protected
22 consumer's record; providing exemptions; requiring a
23 consumer reporting agency to notify a representative
24 and provide specified information if the consumer
25 reporting agency violates a security freeze; providing
26 penalties and civil remedies; amending s. 501.005,
27 F.S.; revising written disclosure requirements for
28 consumer reporting agencies pertaining to consumer

29 | rights associated with a security freeze; conforming a
 30 | cross-reference; providing an effective date.

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32 | Be It Enacted by the Legislature of the State of Florida:

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34 | Section 1. Section 501.0051, Florida Statutes, is created
 35 | to read:

36 | 501.0051 Protected consumer security freeze.—

37 | (1) As used in this section, the term:

38 | (a) "Consumer reporting agency" has the same meaning as
 39 | provided in 15 U.S.C. s. 1681a(f).

40 | (b) "Consumer report" has the same meaning as provided in
 41 | 15 U.S.C. s. 1681a(d).

42 | (c) "Protected consumer" means a person younger than 16
 43 | years of age at the time a security freeze request is made or a
 44 | person represented by a guardian or other advocate pursuant to
 45 | chapter 39, chapter 393, or chapter 744.

46 | (d) "Record" means a compilation of information that:

47 | 1. Identifies a protected consumer;

48 | 2. Is created by a consumer reporting agency exclusively
 49 | for the purpose of complying with this section; and

50 | 3. May not be created or used to consider the protected
 51 | consumer's credit worthiness, credit standing, credit capacity,
 52 | character, general reputation, personal characteristics, or
 53 | eligibility for other financial services.

54 | (e) "Representative" means the custodial parent or legal
 55 | guardian of a protected consumer, including a guardian appointed
 56 | pursuant to s. 914.17.

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57 (f) "Security freeze" means:

58 1. A notice that is placed on the protected consumer's
59 consumer report that prohibits a consumer reporting agency from
60 releasing the consumer report, credit score, or any information
61 contained within the consumer report to a third party without
62 the express authorization of the representative; or

63 2. A notice that is placed on the protected consumer's
64 record that prohibits the consumer reporting agency from
65 releasing the protected consumer's record except as provided in
66 this section, if a consumer reporting agency does not have a
67 file pertaining to the protected consumer.

68 (g) "Sufficient proof of authority" means documentation
69 that shows that a representative has authority to act on behalf
70 of a protected consumer. Sufficient proof of authority includes,
71 but is not limited to, a court order, valid power of attorney,
72 or a written notarized statement signed by a representative that
73 expressly describes the authority of the representative to act
74 on behalf of the protected consumer.

75 (h) "Sufficient proof of identification" means
76 documentation that identifies a protected consumer or a
77 representative of a protected consumer. Sufficient proof of
78 identification includes, but is not limited to, a copy of a
79 social security card, a certified or official copy of a birth
80 certificate, a copy of a valid driver license, or a government-
81 issued photo identification.

82 (2) A representative may place a security freeze on a
83 protected consumer's consumer record by:

84 (a) Submitting a request to a consumer reporting agency in

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85 the manner prescribed by that agency;

86 (b) Providing the agency with sufficient proof of
87 authority and sufficient proof of identification; and

88 (c) Paying the agency a fee as authorized under this
89 section.

90 (3) If a consumer reporting agency does not have a
91 consumer report pertaining to a protected consumer when the
92 consumer reporting agency receives a request for a security
93 freeze under subsection (2), the consumer reporting agency shall
94 create a record for the protected consumer and place a security
95 freeze on the record.

96 (4) A consumer reporting agency shall place a security
97 freeze on a consumer record within 30 days after confirming the
98 authenticity of a security freeze request made in accordance
99 with this section.

100 (5) The consumer reporting agency shall send a written
101 confirmation of the security freeze to the representative within
102 10 business days after instituting the security freeze and shall
103 provide the representative with instructions for removing the
104 security freeze and a unique personal identifier to be used by
105 the representative when providing authorization for removal of a
106 security freeze.

107 (6) A consumer reporting agency may not state or imply to
108 any person that a security freeze on a protected consumer's
109 consumer record reflects a negative credit score, negative
110 credit history, or a negative credit rating.

111 (7) A consumer reporting agency shall remove a security
112 freeze placed on a consumer record of a protected consumer only

113 in the following instances:

114 (a) Upon request of a representative pursuant to paragraph
115 (8) (a).

116 (b) Upon request of a protected consumer pursuant to
117 paragraph (8) (b).

118 (c) If the security freeze was instituted due to a
119 material misrepresentation of fact by a representative. If a
120 consumer reporting agency intends to remove a security freeze
121 pursuant to this paragraph, the consumer reporting agency shall
122 notify the representative in writing before removing the
123 security freeze.

124 (8) A security freeze placed in accordance with this
125 section shall remain in place until a representative or
126 protected consumer requests that it be removed. A consumer
127 reporting agency shall remove a security freeze within 30 days
128 after receiving a request for removal from a protected consumer
129 or representative.

130 (a) A representative submitting a request for removal must
131 provide the following:

132 1. Sufficient proof of identification and sufficient proof
133 of authority as determined by the consumer reporting agency.

134 2. The unique personal identifier provided by the consumer
135 reporting agency pursuant to subsection (5).

136 3. Payment of a fee as authorized by this section.

137 (b) A protected consumer submitting a request for removal
138 must provide the following:

139 1. Sufficient proof of identification as determined by the
140 consumer reporting agency.

141 2. Documentation that the sufficient proof of authority
142 for the protected consumer's representative to act on behalf of
143 the protected consumer is no longer valid.

144 (9) This section does not apply to use of a consumer
145 record by the following persons or for the following reasons:

146 (a) A state agency acting within its lawful investigative
147 or regulatory authority.

148 (b) A state or local law enforcement agency investigating
149 a crime or conducting a criminal background check.

150 (c) Any person administering a credit file monitoring
151 subscription service to which the protected consumer has
152 subscribed.

153 (d) Any person for the purpose of providing the protected
154 consumer's consumer report upon the representative's request.

155 (e) Any person with a court order lawfully entered.

156 (f) Any insurance company for use in setting or adjusting
157 a rate, adjusting a claim, or underwriting for insurance
158 purposes.

159 (g) A consumer reporting agency's database or file which
160 consists entirely of information concerning, and is used
161 exclusively for, one or more of the following:

162 1. Criminal record information.

163 2. Personal loss history information.

164 3. Fraud prevention or detection.

165 4. Tenant screening.

166 5. Employment screening.

167 6. Personal insurance policy information.

168 7. Noncredit information used for insurance purposes.

169 (h) A check services company that issues authorizations
170 for the purpose of approving or processing negotiable
171 instruments, electronic funds transfers, or similar methods of
172 payment.

173 (i) A deposit account information service company that
174 issues reports regarding account closures due to fraud,
175 substantial overdrafts, automatic teller machine abuse, or
176 similar negative information regarding a protected consumer to
177 an inquiring financial institution, as defined in s. 655.005 or
178 in federal law, for use only in reviewing a representative's
179 request for a deposit account for the protected consumer at the
180 inquiring financial institution.

181 (j) A consumer reporting agency that acts only as a
182 reseller of credit information by assembling and merging
183 information contained in the database of another consumer
184 reporting agency or multiple consumer reporting agencies and
185 does not maintain a permanent database of credit information
186 from which new consumer reports are produced. However, a
187 consumer reporting agency shall honor any security freeze placed
188 or removed by another consumer reporting agency.

189 (k) A fraud prevention services company issuing reports to
190 prevent or investigate fraud.

191 (10) (a) A consumer reporting agency may charge a
192 reasonable fee, not to exceed \$10, to a representative who
193 elects to place or remove a security freeze.

194 (b) A consumer reporting agency may charge a reasonable
195 fee, not to exceed \$10, if the representative fails to retain
196 the original personal identifier provided by the consumer

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197 reporting agency and the agency must reissue the personal
198 identifier or provide a new personal identifier to the
199 representative.

200 (c) A consumer reporting agency may not charge any fee
201 under this section to a representative of a protected consumer
202 who is a victim of identity theft if the representative submits,
203 at the time the security freeze is requested, a copy of a valid
204 investigative report or incident report or complaint with a law
205 enforcement agency about the unlawful use of the protected
206 consumer's identifying information by another person.

207 (11) If a security freeze is in effect, a consumer
208 reporting agency may not change any of the following official
209 information in the consumer record without sending a written
210 confirmation of the change to the representative within 30 days
211 after the change is posted to the protected consumer's record:

- 212 (a) The protected consumer's name.
213 (b) The protected consumer's address.
214 (c) The protected consumer's date of birth.
215 (d) The protected consumer's social security number.

216
217 Written confirmation is not required for technical corrections
218 of a protected consumer's official information, including name
219 and street abbreviations, complete spellings, or transposition
220 of numbers or letters. In the case of an address change, the
221 written confirmation must be sent to both the new address and
222 the former address.

223 (12) If a consumer reporting agency violates a security
224 freeze placed in accordance with this section by releasing

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225 information subject to a security freeze without proper
226 authorization, the consumer reporting agency shall, within 5
227 business days after discovering or being notified of the release
228 of information, notify the representative of the protected
229 consumer in writing. The notice shall state the specific
230 information released, and provide the name, address, and other
231 contact information of the recipient of the information.

232 (13) (a) Any consumer reporting agency that willfully fails
233 to comply with any requirement imposed under this section with
234 respect to any representative or protected consumer is subject
235 to an administrative fine in the amount of up to \$500 issued
236 pursuant to the administrative procedures established in chapter
237 120 by the Department of Agriculture and Consumer Services.

238 (b) Any individual who obtains a record under false
239 pretenses or knowingly without a permissible purpose is liable
240 to the representative and protected consumer for actual damages
241 sustained by the protected consumer as a result of the failure
242 of at least \$100 but not more than \$1,000.

243 (c) Any person who obtains a record from a consumer
244 reporting agency under false pretenses or knowingly without a
245 permissible purpose is liable to the consumer reporting agency
246 for actual damages sustained by the consumer reporting agency or
247 \$1,000, whichever is greater.

248 Section 2. Subsection (17) of section 501.005, Florida
249 Statutes, is amended to read:

250 501.005 Consumer report security freeze.-

251 (17) Any written disclosure by a consumer reporting
252 agency, pursuant to 15 U.S.C. s. 1681g, to any consumer residing

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253 in this state shall include a written summary of all rights the
254 consumer has under this section and s. 501.0051, and, in the
255 case of a consumer reporting agency which compiles and maintains
256 consumer reports on a nationwide basis, a toll-free telephone
257 number which the consumer can use to communicate with the
258 consumer reporting agency. The information set forth in
259 paragraph (c) ~~(b)~~ of the written summary of rights must be in at
260 least 12-point boldface type. The written summary of rights
261 required under this section is sufficient if it is substantially
262 in the following form:

263 (a) You have a right to place a "security freeze" on your
264 consumer report, which will prohibit a consumer reporting agency
265 from releasing any information in your consumer report without
266 your express authorization. A security freeze must be requested
267 in writing by certified mail to a consumer reporting agency. The
268 security freeze is designed to prevent credit, loans, and
269 services from being approved in your name without your consent.

270 (b) If you are the custodial parent or legal guardian of a
271 minor younger than 16 years of age or a guardian or advocate of
272 an incapacitated, disabled, or protected person under chapter
273 39, chapter 393, chapter 744, or chapter 914 Florida Statutes,
274 you have a right to place a security freeze on the consumer
275 report of the person you are legally authorized to care for. If
276 no consumer report exists, you have a right to request a record
277 to be created and a security freeze to be placed on the record.
278 A record with a security freeze is intended to prevent the
279 opening of credit accounts until the security freeze is removed.

280 (c) ~~(b)~~ YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO

281 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR
 282 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE
 283 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU
 284 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,
 285 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,
 286 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL
 287 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES,
 288 INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

289 (d)~~(e)~~ When you place a security freeze on your consumer
 290 report, you will be provided a personal identification number or
 291 password to use if you choose to remove the freeze on your
 292 consumer report or authorize the release of your consumer report
 293 for a designated period of time after the security freeze is in
 294 place. To provide that authorization, you must contact the
 295 consumer reporting agency and provide all of the following:

- 296 1. The personal identification number or password.
- 297 2. Proper identification to verify your identity.
- 298 3. Information specifying the period of time for which the
 299 report shall be made available.
- 300 4. Payment of a fee authorized by this section.

301 (e)~~(d)~~ A consumer reporting agency must authorize the
 302 release of your consumer report no later than 3 business days
 303 after receiving the above information.

304 (f)~~(e)~~ A security freeze does not apply to a person or
 305 entity, or its affiliates, or collection agencies acting on
 306 behalf of the person or entity, with which you have an existing
 307 account, that requests information in your consumer report for
 308 the purposes of reviewing or collecting the account. Reviewing

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309 | the account includes activities related to account maintenance,
310 | monitoring, credit line increases, and account upgrades and
311 | enhancements.

312 | (g)~~(f)~~ You have the right to bring a civil action against
313 | anyone, including a consumer reporting agency, who fails to
314 | comply with the provisions of s. 501.005, Florida Statutes,
315 | which governs the placing of a consumer report security freeze
316 | on your consumer report.

317 | Section 3. This act shall take effect September 1, 2013.