

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; providing written
27 disclosure requirements for consumer reporting
28 agencies relating to protected consumer security

29 | freezes; providing an effective date.

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

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

35 | 501.0051 Protected consumer security freeze.-

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

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

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

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

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

46 | 1. Identifies a protected consumer;

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

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

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

56 | (f) "Security freeze" means:

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

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

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

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

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

83 (a) Submitting a request to a consumer reporting agency in
84 the manner prescribed by that agency;

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

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

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

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

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

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

110 (7) A consumer reporting agency shall remove a security
111 freeze placed on a consumer record of a protected consumer only
112 in the following instances:

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

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

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

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

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

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

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

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

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

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

140 2. Documentation that the sufficient proof of authority

141 for the protected consumer's representative to act on behalf of
142 the protected consumer is no longer valid.

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

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

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

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

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

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

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

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

161 1. Criminal record information.

162 2. Personal loss history information.

163 3. Fraud prevention or detection.

164 4. Tenant screening.

165 5. Employment screening.

166 6. Personal insurance policy information.

167 7. Noncredit information used for insurance purposes.

168 (h) A check services company that issues authorizations

169 for the purpose of approving or processing negotiable
170 instruments, electronic funds transfers, or similar methods of
171 payment.

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

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

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

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

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

197 | identifier or provide a new personal identifier to the
 198 | representative.

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

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

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

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

222 | (12) If a consumer reporting agency violates a security
 223 | freeze placed in accordance with this section by releasing
 224 | information subject to a security freeze without proper

225 authorization, the consumer reporting agency shall, within 5
226 business days after discovering or being notified of the release
227 of information, notify the representative of the protected
228 consumer in writing. The notice shall state the specific
229 information released, and provide the name, address, and other
230 contact information of the recipient of the information.

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

237 (14) A person who is aggrieved by a violation of this
238 section may bring a civil action as follows:

239 (a) A person who obtains a record under false pretenses,
240 or who knowingly obtains a record without a permissible purpose,
241 is liable to the representative and protected consumer for
242 actual damages sustained by the protected consumer or \$1,000,
243 whichever is greater.

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

249 (15) A written disclosure by a consumer reporting agency,
250 pursuant to 15 U.S.C. s. 1681g, to a representative and
251 protected consumer residing in this state shall include a
252 written summary of all rights that the representative and

253 protected consumer have under this section, and, in the case of
254 a consumer reporting agency which compiles and maintains records
255 on a nationwide basis, a toll-free telephone number that the
256 representative can use to communicate with the consumer
257 reporting agency. The information provided in paragraph (b) of
258 the written summary of rights must be in at least 12-point
259 boldface type. The written summary of rights required under this
260 section is sufficient if it is substantially in the following
261 form:

262 (a) If you are the custodial parent or legal guardian of a
263 minor younger than 16 years of age or a guardian or advocate of
264 an incapacitated, disabled, or protected person under chapter
265 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,
266 you have a right to place a security freeze on the consumer
267 report of the person you are legally authorized to care for. If
268 no consumer report exists, you have a right to request a record
269 to be created and a security freeze to be placed on the record.
270 A record with a security freeze is intended to prevent the
271 opening of credit accounts until the security freeze is removed.

272 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
273 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE
274 CONSUMER RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT THE
275 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
276 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
277 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
278 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
279 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
280 EXTENSION OF CREDIT AT POINT OF SALE.

281 (c) To remove the security freeze on the protected
282 consumer's record or authorize the release of the record, you
283 must contact the consumer reporting agency and provide all of
284 the following:

285 1. The personal identification required by the consumer
286 reporting agency.

287 2. Sufficient proof of authority over the protected
288 consumer.

289 3. Payment of a fee authorized by this section.

290 (d) A consumer reporting agency must, within 30 days after
291 receiving the above information, authorize the release of the
292 record or, within 3 business days after receiving the above
293 information, authorize the release of the consumer report.

294 (e) A security freeze does not apply to a person or
295 entity, or its affiliates, or collection agencies acting on
296 behalf of the person or entity, with which the protected
297 consumer has an existing account, that requests information in
298 the protected consumer's consumer report for the purposes of
299 reviewing or collecting the account. Reviewing the account
300 includes activities related to account maintenance, monitoring,
301 credit line increases, and account upgrades and enhancements.

302 (f) You have the right to bring a civil action as
303 authorized by s. 501.0051, Florida Statutes, which governs the
304 security of protected consumer information.

305 Section 2. This act shall take effect September 1, 2013.