

Representative James A. Dunnigan proposes the following substitute bill:

CONSUMER REPORTING AGENCY FEES

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies and enacts provisions of the Consumer Credit Protection Act.

Highlighted Provisions:

This bill:

- ▶ modifies the manner in which a consumer requests a placement or removal of a security freeze;
- ▶ addresses a consumer reporting agency's duties related to placing a security freeze;
- ▶ prohibits a consumer reporting agency from charging a fee in connection with placing or removing a security freeze; and
- ▶ prohibits a consumer reporting agency from charging a fee to download or install a mobile application through which a person places or removes a security freeze.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-45-201, as last amended by Laws of Utah 2015, Chapter 191



26 [13-45-202](#), as last amended by Laws of Utah 2015, Chapter 191
27 [13-45-204](#), as enacted by Laws of Utah 2006, Chapter 344



29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **13-45-201** is amended to read:

31 **13-45-201. Security freeze.**

32 (1) As used in this part~~[-"security"]~~:

33 (a) "Security freeze" means a prohibition, consistent with the provisions of this section,
34 on a consumer reporting agency's furnishing of a consumer's credit report to a third party
35 intending to use the credit report to determine the consumer's eligibility for credit.

36 (b) "Unique personal identifier" means a personal identification number, password, or
37 other secure form of identity verification accepted by a consumer reporting agency and
38 intended for use by a consumer to place, remove, or temporarily remove a security freeze in
39 accordance with this chapter.

40 ~~[(2) A consumer may place a security freeze on the consumer's credit report by:]~~

41 ~~[(a) making a request to a consumer reporting agency in writing by certified mail;]~~

42 ~~[(b) providing proper identification; and]~~

43 ~~[(c) paying the fee required by the consumer reporting agency in accordance with~~

44 ~~Section [13-45-204](#).]~~

45 (2) (a) A consumer may request a security freeze on a consumer's credit report by:

46 (i) submitting a request for a security freeze to the consumer reporting agency by:

47 (A) certified mail to the postal address identified by the consumer reporting agency in
48 accordance with Subsection (5); or

49 (B) electronic means developed by the consumer reporting agency in accordance with
50 Subsection (5); and

51 (ii) providing proper identification to the consumer reporting agency.

52 (b) Upon receipt of a request described in Subsection (2)(a), the consumer reporting
53 agency shall:

54 (i) place a security freeze on the consumer's credit report:

55 (A) if the consumer submits the request by certified mail, as soon as practicable but no
56 later than five business days after the business day on which the consumer reporting agency

57 receives the request and the consumer's proper identification;

58 (B) if the consumer submits the request by a contact method described in Subsection

59 (5)(a)(ii) or (iii) ~~§~~→ **that is not a mobile application** ←~~§~~ , as soon as practicable but no later than

59a 24 hours after the consumer reporting

60 agency receives the request and the consumer's proper identification; or

61 ~~§~~→ ~~[(e)]~~ (C) ←~~§~~ if the consumer submits the request by mobile application, within 15

61a minutes after

62 the consumer reporting agency receives the request and the consumer's proper identification;

63 (ii) provide the consumer a unique personal identifier, unless the consumer reporting
64 agency previously provided the consumer a unique personal identifier; and

65 (iii) within five business days after the business day on which the consumer reporting
66 agency places the security freeze, provide the consumer confirmation that the consumer
67 reporting agency placed the security freeze.

68 (3) If a security freeze is in place, a consumer reporting agency may not release a
69 consumer's credit report, or information from the credit report, to a third party that intends to
70 use the information to determine a consumer's eligibility for credit without prior authorization
71 from the consumer.

72 (4) (a) Notwithstanding Subsection (3), a consumer reporting agency may
73 communicate to a third party requesting a consumer's credit report that a security freeze is in
74 effect on the consumer's credit report.

75 (b) If a third party requesting a consumer's credit report in connection with the
76 consumer's application for credit is notified of the existence of a security freeze under
77 Subsection (4)(a), the third party may treat the consumer's application as incomplete.

78 ~~[(5) Upon receiving a request from a consumer under Subsection (2), the consumer~~
79 ~~reporting agency shall:]~~

80 ~~[(a) place a security freeze on the consumer's credit report within five business days~~
81 ~~after receiving the consumer's request;]~~

82 ~~[(b) send a written confirmation of the security freeze to the consumer within 10~~
83 ~~business days after placing the security freeze; and]~~

84 ~~[(c) provide the consumer with a unique personal identification number or password to~~
85 ~~be used by the consumer when providing authorizations for removal or temporary removal of~~
86 ~~the security freeze under Section 13-45-202;]~~

87 ~~[(6) A consumer reporting agency shall require proper identification of the consumer~~

88 ~~requesting to place, remove, or temporarily remove a security freeze.]~~

89 ~~[(7)]~~ (5) (a) A consumer reporting agency shall develop a contact method to receive
90 and process a consumer's request to place, remove, or temporarily remove a security freeze.

91 (b) A contact method under Subsection ~~[(7)]~~ (5)(a) shall include:

92 (i) a postal address;

93 (ii) an electronic contact method chosen by the consumer reporting agency, which may
94 include the use of fax, Internet, or other electronic means; and

95 (iii) the use of telephone in a manner that is consistent with any federal requirements
96 placed on the consumer reporting agency.

97 ~~[(8)]~~ (6) A security freeze placed under this section may be removed only in
98 accordance with Section 13-45-202.

99 (7) (a) The time requirement described in Subsection (2)(b)(i)(B) does not apply if the
100 consumer reporting agency's ability to place the security freeze is prevented by:

101 (i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural
102 disaster or phenomena;

103 (ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,
104 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

105 (iii) operational interruption, including electrical failure, unanticipated delay in
106 equipment or replacement part delivery, computer hardware or software failures inhibiting
107 response time, or similar disruption;

108 (iv) governmental action, including emergency orders or regulations, judicial or law
109 enforcement action, or similar directives;

110 (v) regularly scheduled maintenance, during other than normal business hours, of, or
111 updates to, the consumer reporting agency's systems; or

112 (vi) commercially reasonable maintenance of, or repair to, the consumer reporting
113 agency's systems that is unexpected or unscheduled.

114 (b) In the event of a circumstance described in Subsection (7)(a), the consumer
115 reporting agency shall place the security freeze as soon as practicable.

116 Section 2. Section 13-45-202 is amended to read:

117 **13-45-202. Removal of security freeze -- Requirements and timing.**

118 (1) A consumer reporting agency ~~[may]~~ shall remove a security freeze from a

119 consumer's credit report only if:

120 (a) (i) the consumer reporting agency receives the consumer's request through ~~[a]~~ the
121 contact method established and required in accordance with Subsection 13-45-201~~[(7)](5)~~; and

122 (ii) the consumer reporting agency receives the consumer's proper identification ~~[and:]~~
123 or unique personal identifier; or

124 ~~[(A) other information sufficient to identify the consumer; or]~~

125 ~~[(B) the consumer provides the consumer's personal identification number or~~
126 ~~password; or]~~

127 (b) the consumer makes a material misrepresentation of fact in connection with the
128 placement of the security freeze and the consumer reporting agency notifies the consumer in
129 writing before removing the security freeze.

130 (2) ~~[(a)]~~ A consumer reporting agency shall temporarily remove a security freeze upon
131 receipt of:

132 ~~[(i)]~~ (a) the consumer's request through the contact method established by the consumer
133 reporting agency in accordance with Subsection 13-45-201~~[(7)](5)~~;

134 ~~[(ii)]~~ (b) the consumer's proper identification ~~[and:]~~ or unique personal identifier; and

135 ~~[(A) other information sufficient to identify the consumer; or]~~

136 ~~[(B) personal identification number or password;]~~

137 ~~[(iii)]~~ (c) a specific designation of the period of time for which the security freeze is to
138 be removed~~[-and].~~

139 ~~[(iv) the consumer reporting agency receives the payment of any fee required under~~
140 ~~Section 13-45-204.]~~

141 ~~[(b)]~~ (3) A consumer reporting agency shall remove or temporarily remove a security
142 freeze from a consumer's credit report within:

143 ~~[(i)]~~ (a) three business days after the business day on which the consumer's written
144 request to remove the security freeze is received by the consumer reporting agency at the postal
145 address chosen by the consumer reporting agency in accordance with Subsection

146 13-45-201~~[(7)](5)~~; or

147 ~~[(ii)]~~ (b) 15 minutes after the consumer's request is received by the consumer reporting
148 agency through the electronic contact method chosen by the consumer reporting agency in
149 accordance with Subsection 13-45-201~~[(7)](5)~~, or the use of telephone, during normal business

150 hours and includes the consumer's [~~proper identification and correct personal identification~~
151 ~~number or password~~] unique personal identifier.

152 [~~(3) A consumer reporting agency need not remove a security freeze within the time~~
153 ~~provided in Subsection (2)(b)(ii) if:~~]

154 [~~(a) the consumer fails to meet the requirements of Subsection 13-45-202(1); or]~~

155 [~~(b) the consumer reporting agency's ability to remove the security freeze within 15~~
156 ~~minutes is prevented by:~~]

157 (4) (a) The time requirement described in Subsection (3)(b) does not apply if the
158 consumer reporting agency's ability to remove the security freeze is prevented by:

159 (i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural
160 disaster or phenomena;

161 (ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,
162 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

163 (iii) operational interruption, including electrical failure, unanticipated delay in
164 equipment or replacement part delivery, computer hardware or software failures inhibiting
165 response time, or similar disruption;

166 (iv) governmental action, including emergency orders or regulations, judicial or law
167 enforcement action, or similar directives;

168 (v) regularly scheduled maintenance, during other than normal business hours, of, or
169 updates to, the consumer reporting agency's systems; or

170 (vi) commercially reasonable maintenance of, or repair to, the consumer reporting
171 agency's systems that is unexpected or unscheduled[~~; or~~].

172 (b) In the event of a circumstance described in Subsection (4)(a), the consumer
173 reporting agency shall remove the security freeze as soon as practicable.

174 [~~(vii) receipt of a removal request outside of normal business hours.]~~

175 Section 3. Section **13-45-204** is amended to read:

176 **13-45-204. Fees for security freeze.**

177 [~~(1) Except as provided in Subsection (2), a consumer reporting agency may charge a~~
178 ~~reasonable fee to a consumer for placing and temporarily removing a security freeze.]~~

179 [~~(2)~~] (1) A consumer reporting agency may not charge a fee for placing, removing, or
180 temporarily removing a security freeze [if:].

181 ~~[(a) the consumer is a victim of identity fraud under Section [76-6-1102](#); and]~~
182 ~~[(b) the consumer provides the consumer reporting agency with a valid copy of a police~~
183 ~~report or police case number documenting the identity fraud.]~~
184 (2) A consumer reporting agency may not charge a fee to download or install a mobile
185 application through which a person places or removes a security freeze.