

1 **CONSUMER REPORTING AGENCY FEES**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 **Senate Sponsor: Todd Weiler**

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **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

28

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 24
60 hours after the consumer reporting agency receives the request and the consumer's proper
61 identification; or

62 (C) if the consumer submits the request by mobile application, within 15 minutes after
63 the consumer reporting agency receives the request and the consumer's proper identification;

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

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

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

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

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

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

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

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

85 ~~[(c) provide the consumer with a unique personal identification number or password to~~

86 be used by the consumer when providing authorizations for removal or temporary removal of
87 the security freeze under Section ~~13-45-202~~.]

88 [~~(6)~~ A consumer reporting agency shall require proper identification of the consumer
89 requesting to place, remove, or temporarily remove a security freeze.]

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

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

93 (i) a postal address;

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

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

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

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

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

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

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

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

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

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

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

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

119 **13-45-202. Removal of security freeze -- Requirements and timing.**

120 (1) A consumer reporting agency [~~may~~] shall remove a security freeze from a
121 consumer's credit report only if:

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

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

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

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

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

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

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

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

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

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

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

141 [~~(iv) the consumer reporting agency receives the payment of any fee required under~~]

142 ~~Section 13-45-204.~~

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

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

148 ~~13-45-201[(7)](5)(b)(i); or~~

149 ~~[(ii)]~~ (b) 15 minutes after the consumer's request is received by the consumer reporting
150 agency through ~~[the electronic]~~ a contact method ~~[chosen by the consumer reporting agency in~~
151 ~~accordance with]~~ described in Subsection ~~13-45-201[(7), or the use of telephone, during~~
152 ~~normal business hours](5)(b)(ii) or (iii), and includes the consumer's [proper identification and~~
153 ~~correct personal identification number or password]~~ unique personal identifier.

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

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

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

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

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

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

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

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

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

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

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

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

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

178 **13-45-204. Fees for security freeze.**

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

181 ~~[(2)]~~ (1) A consumer reporting agency may not charge a fee for placing, removing, or
182 temporarily removing a security freeze ~~[if:]~~.

183 ~~[(a) the consumer is a victim of identity fraud under Section ~~76-6-1102~~; and]~~

184 ~~[(b) the consumer provides the consumer reporting agency with a valid copy of a police~~
185 ~~report or police case number documenting the identity fraud.]~~

186 (2) A consumer reporting agency may not charge a fee to download or install a mobile
187 application through which a person places or removes a security freeze.