

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Adams offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 44 through 257 and insert:

5 information contained within the consumer report to a third
6 party without the express authorization of the consumer. This
7 section does not prevent a consumer reporting agency from
8 advising a third party that a security freeze is in effect with
9 respect to the consumer report. For purposes of this part, the
10 term "consumer report" has the same meaning set forth in 15
11 U.S.C. s. 1681a(d).

12 (2) A consumer may place a security freeze on his or her
13 consumer report by:

14 (a) Making a request in writing by certified mail to a
15 consumer reporting agency.

16 (b) Including information that properly identifies the
17 consumer.

18 (c) Paying a fee authorized under this section.

19 (3) A consumer reporting agency shall place a security
20 freeze on a consumer report no later than 5 business days after
21 receiving a request from the consumer.

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22 (4) The consumer reporting agency shall send a written
23 confirmation of the security freeze to the consumer within 10
24 business days after instituting the security freeze and shall
25 provide the consumer with a unique personal identification
26 number or password to be used by the consumer when providing
27 authorization for the removal of a security freeze on his or her
28 consumer report pursuant to subsection (5) or subsection (11).

29 (5) A consumer may allow his or her consumer report to be
30 accessed for a designated period of time while a security freeze
31 is in effect by contacting the consumer reporting agency and
32 requesting that the freeze be temporarily lifted. The consumer
33 must provide the following information to the consumer reporting
34 agency as part of the request:

35 (a) Proper identification as determined by the consumer
36 reporting agency.

37 (b) The unique personal identification number or password
38 provided by the consumer reporting agency pursuant to subsection
39 (4).

40 (c) Information specifying the period of time for which
41 the report shall be made available.

42 (d) Payment of a fee authorized by this section.

43 (6) A consumer reporting agency that receives a request
44 from a consumer to temporarily lift a freeze on a consumer
45 report pursuant to subsection (5) shall comply with the request
46 no later than 3 business days after receiving the request.

47 (7) No later than July 1, 2007, a consumer reporting
48 agency doing business in this state shall select and develop a
49 secure electronic contact method, which may include the use of
50 telephone, fax, the Internet, or other secure electronic means,
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51 by which to receive and process requests from consumers to
52 temporarily lift a freeze on a consumer report pursuant to
53 subsection (5).

54 (8) A consumer reporting agency shall temporarily lift or
55 remove a security freeze placed on a consumer report only in the
56 following instances:

57 (a) Upon consumer request, pursuant to subsection (5) or
58 subsection (11).

59 (b) If the consumer report was frozen due to a material
60 misrepresentation of fact by the consumer. If a consumer
61 reporting agency intends to remove a security freeze on a
62 consumer report pursuant to this paragraph, the consumer
63 reporting agency shall notify the consumer in writing prior to
64 removing the security freeze.

65 (9) A third party requesting access to a consumer report
66 on which a security freeze is in effect in connection with an
67 application for credit or other permissible use may treat the
68 application as incomplete if the consumer has not authorized a
69 temporary lifting of the security freeze for the period of time
70 during which the request is made.

71 (10) If a consumer requests a security freeze, the
72 consumer reporting agency shall disclose to the consumer all
73 information relevant to the process of instituting, temporarily
74 lifting, and removing a security freeze and shall include the
75 disclosure required by subsection (17).

76 (11) A security freeze shall remain in place until the
77 consumer requests that it be removed. A consumer reporting
78 agency shall remove a security freeze within 3 business days

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79 after receiving a request for removal from the consumer, who,
80 upon making the request for removal, must provide the following:

81 (a) Proper identification as determined by the consumer
82 reporting agency.

83 (b) The unique personal identification number or password
84 provided by the consumer reporting agency pursuant to subsection
85 (4).

86 (c) Payment of a fee authorized by this section.

87 (12) The provisions of this section do not apply to the
88 use of a consumer report by the following persons or for the
89 following reasons:

90 (a) A person to whom the consumer owes a financial
91 obligation or a subsidiary, affiliate, or agent of the person,
92 or an assignee of a financial obligation owed by the consumer to
93 the person, or a prospective assignee of a financial obligation
94 owed by the consumer to the person in conjunction with the
95 proposed purchase of the financial obligation, with which the
96 consumer has or had prior to assignment an account or contract,
97 including a deposit account, or to whom the consumer issued a
98 negotiable instrument, for the purposes of reviewing the account
99 or collecting the financial obligation owed for the account,
100 contract, or negotiable instrument. For purposes of this
101 paragraph, "reviewing the account" includes activities related
102 to account maintenance, monitoring, credit line increases, and
103 account upgrades and enhancements.

104 (b) A subsidiary, affiliate, agent, assignee, or
105 prospective assignee of a person to whom access has been granted
106 under this section for purposes of facilitating the extension of
107 credit or other permissible use.

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108 (c) A state agency acting within its lawful investigative
109 or regulatory authority.

110 (d) A state or local law enforcement agency acting to
111 investigate a crime or conducting a criminal background check.

112 (e) Any person administering a credit file monitoring
113 subscription service to which the consumer has subscribed.

114 (f) Any person for the purpose of providing a consumer
115 with a copy of the consumer report upon the consumer's request.

116 (g) Pursuant to a court order lawfully entered.

117 (h) The use of credit information for the purposes of
118 prescreening as provided for by the federal Fair Credit
119 Reporting Act.

120 (i) Any insurance company for use in setting or adjusting
121 a rate, adjusting a claim, or underwriting for insurance
122 purposes.

123 (j) A consumer reporting agency's database or file which
124 consists entirely of information concerning, and is used solely
125 for, one or more of the following:

126 1. Criminal record information.

127 2. Personal loss history information.

128 3. Fraud prevention or detection.

129 4. Tenant screening.

130 5. Employment screening.

131 (13) (a) A consumer reporting agency may charge a
132 reasonable fee, not to exceed \$10, to a consumer who elects to
133 place, remove, or temporarily lift a security freeze on his or
134 her consumer report.

135 (b) A consumer reporting agency shall not charge any fee:

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136 1. To a consumer 65 years of age or older for the initial
137 placement or removal of a security freeze; or

138 2. To a victim of identity theft who has submitted, at the
139 time the security freeze is requested, a copy of a valid
140 investigative or incident report or complaint with a law
141 enforcement agency about the unlawful use of the victim's
142 identifying information by another person.

143 (c) A consumer reporting agency may charge a reasonable
144 fee, not to exceed \$10, if the consumer fails to retain the
145 original personal identification number or password provided by
146 the consumer reporting agency and the agency must reissue the
147 personal identification number or password or provide a new
148 personal identification number or password to the consumer.

149 (14) If a security freeze is in effect, a consumer
150 reporting agency shall not change any of the following official
151 information in a consumer report without sending a written
152 confirmation of the change to the consumer within 30 days after
153 the change is posted to the consumer's file:

154 (a) Name.

155 (b) Address.

156 (c) Date of birth.

157 (d) Social security number.

158
159 Written confirmation is not required for technical corrections
160 of a consumer's official information, including name and street
161 abbreviations, complete spellings, or transposition of numbers
162 or letters. In the case of an address change, the written
163 confirmation shall be sent to both the new address and the
164 former address.

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165 (15) The provisions of this section do not apply to the
166 following entities:

167 (a) A check services company, which issues authorizations
168 for the purpose of approving or processing negotiable
169 instruments, electronic funds transfers, or similar methods of
170 payment.

171 (b) A deposit account information service company, which
172 issues reports regarding account closures due to fraud,
173 substantial overdrafts, automatic teller machine abuse, or
174 similar negative information regarding a consumer to inquiring
175 banks or other financial institutions for use only in reviewing
176 a consumer request for a deposit account at the inquiring bank
177 or financial institution, as defined in s. 655.005(1)(g) or (h),
178 or in federal law.

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

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

190 (16) In addition to any other penalties or remedies
191 provided under law, a person who is aggrieved by a violation of
192 the provisions of this section may bring a civil action as
193 authorized by this subsection.

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194 (a) Any person who willfully fails to comply with any
195 requirement imposed under this section with respect to any
196 consumer is liable to that consumer for actual damages sustained
197 by the consumer as a result of the failure of not less than \$100
198 and not more than \$1,000, plus the cost of the action together
199 with reasonable attorney's fees.

200 (b) Any individual who obtains a consumer report under
201 false pretenses or knowingly without a permissible purpose is
202 liable to the consumer for actual damages sustained by the
203 consumer as a result of the failure or damages of not less than
204 \$100 and not more than \$1,000, whichever is greater. Any person
205 who obtains a consumer report from a consumer reporting agency
206 under false pretenses or knowingly without a permissible purpose
207 is liable to the consumer reporting agency for actual damages
208 sustained by the consumer reporting agency or \$1,000, whichever
209 is greater.

210 (c) Punitive damages may be assessed for willful
211 violations of this section.

212 (d) Any person who is negligent in failing to comply with
213 any requirement imposed under this section with respect to any
214 consumer is liable to that consumer for any actual damages
215 sustained by the consumer as a result of the failure of not less
216 than \$100 and not more than \$1,000.

217 (e) Upon a finding by the court that an unsuccessful
218 pleading, motion, or other paper filed in connection with an
219 action under this subsection was filed in bad faith or for
220 purposes of harassment, the court shall award to the prevailing
221 party attorney's fees that are reasonable in relation to the

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222 work performed in responding to the pleading, motion, or other
223 paper.

224 (17) Any written disclosure by a consumer reporting
225 agency, pursuant to 15 U.S.C. s. 1681g, to any consumer residing
226 in this state shall include a written summary of all rights the
227 consumer has under this section, and, in the case of a consumer
228 reporting agency which compiles and maintains consumer reports
229 on a nationwide basis, a toll-free telephone number which the
230 consumer can use to communicate with the consumer reporting
231 agency. The information set forth in paragraph (b) of the
232 written summary of rights must be in at least 12-point boldface
233 type. The written summary of rights required under this section
234 is sufficient if it is substantially in the following form:

235

236 ===== T I T L E A M E N D M E N T =====

237 Remove lines 19 through 24 and insert:

238

239 applicability; authorizing a consumer reporting agency to charge
240 a fee to place, remove, or temporarily lift a security freeze;
241 prohibiting a consumer reporting agency from charging a fee to
242 specified persons; authorizing the charging of a fee for the
243 reissuance of a personal identification number; restricting