

1 A bill to be entitled
2 An act relating to security of consumer credit report
3 information; creating s. 501.005, F.S.; authorizing a
4 consumer to place a security freeze on his or her credit
5 report; defining "consumer credit report security freeze";
6 providing procedures and requirements with respect to the
7 placement, temporary suspension, and removal of a security
8 freeze on a consumer credit report; authorizing a consumer
9 to allow specified temporary access to his or her credit
10 report during a security freeze; providing procedures with
11 respect to such temporary access; providing for removal of
12 a security freeze when a consumer's credit report was
13 frozen due to a material misrepresentation of fact by the
14 consumer; providing applicability; authorizing consumer
15 credit reporting agencies to charge a fee to initiate,
16 remove, or temporarily lift a security freeze; disallowing
17 such fee for victims of identity theft; restricting the
18 change of specified information in a consumer credit
19 report when a security freeze is in effect; specifying
20 applicability with respect to certain consumer credit
21 reporting agencies; specifying entities that are exempt
22 from placing a security freeze on a consumer credit
23 report; providing for civil remedy; providing requirements
24 with respect to written disclosure by a consumer credit
25 reporting agency of procedures and consumer rights
26 associated with a security freeze; providing an effective
27 date.
28

29 Be It Enacted by the Legislature of the State of Florida:

30
 31 Section 1. Section 501.005, Florida Statutes, is created
 32 to read:

33 501.005 Consumer credit report security freeze.--

34 (1) A consumer may elect to place a security freeze on his
 35 or her credit report by making a request in writing by certified
 36 mail to a consumer credit reporting agency. For purposes of this
 37 section, "consumer credit report security freeze" or "security
 38 freeze" means a notice placed in a consumer's credit report, at
 39 the request of the consumer and subject to the exceptions
 40 specified in this section, that prohibits the consumer credit
 41 reporting agency from releasing the consumer's credit report or
 42 any information contained within the credit report without the
 43 express authorization of the consumer. When a security freeze is
 44 in place, information from a consumer's credit report shall not
 45 be released to a third party without prior express authorization
 46 from the consumer. This act does not prevent a consumer credit
 47 reporting agency from advising a third party that a security
 48 freeze is in effect with respect to the consumer's credit
 49 report.

50 (2) A consumer credit reporting agency shall place a
 51 security freeze on a consumer's credit report no later than 5
 52 business days after receiving a written request from the
 53 consumer.

54 (3) The consumer credit reporting agency shall send a
 55 written confirmation of the security freeze to the consumer
 56 within 10 business days of instituting the security freeze and

57 shall provide the consumer with a unique personal identification
58 number or password to be used by the consumer when providing
59 authorization for the limited release of his or her credit
60 report to a specific party during the security freeze or for a
61 designated period of time during the security freeze as provided
62 in subsection (4).

63 (4) If the consumer wishes to allow his or her credit
64 report to be accessed by a specific party or for a designated
65 period of time while a security freeze is in effect, he or she
66 shall contact the consumer credit reporting agency, request that
67 the freeze be temporarily lifted, and provide the following:

68 (a) Proper identification as determined by the consumer
69 credit reporting agency.

70 (b) The unique personal identification number or password
71 provided by the credit reporting agency pursuant to subsection
72 (3).

73 (c) The proper information regarding the third party who
74 is to receive the credit report or the period of time for which
75 the report shall be made temporarily available to those
76 authorized to access the credit report.

77 (5) A consumer credit reporting agency that receives a
78 request from a consumer to temporarily lift a freeze on a credit
79 report pursuant to subsection (4) shall comply with the request
80 no later than 3 business days after receiving the request.

81 (6) A consumer credit reporting agency may develop
82 procedures involving the use of telephone, fax, the Internet, or
83 other electronic media to receive and process a request from a

84 consumer to temporarily lift a freeze on a credit report
 85 pursuant to subsection (4) in an expedited manner.

86 (7) A consumer credit reporting agency shall remove or
 87 temporarily lift a security freeze placed on a consumer's credit
 88 report only in the following instances:

89 (a) Upon consumer request, pursuant to subsection (4) or
 90 subsection (10).

91 (b) If the consumer's credit report was frozen due to a
 92 material misrepresentation of fact by the consumer.

93
 94 If a consumer credit reporting agency intends to remove a
 95 security freeze on a consumer's credit report pursuant to this
 96 subsection, the consumer credit reporting agency shall notify
 97 the consumer in writing prior to removing the security freeze.

98 (8) A third party requesting access to a consumer credit
 99 report on which a security freeze is in effect in connection
 100 with an application for credit or any other use may treat the
 101 application as incomplete if the consumer has not authorized a
 102 temporary lifting of the security freeze for the specific third
 103 party requesting access or for the period of time during which
 104 the request is made.

105 (9) If a consumer requests a security freeze, the consumer
 106 credit reporting agency shall disclose to the consumer all
 107 information relevant to the process of instituting a security
 108 freeze and the process for temporarily lifting the security
 109 freeze to allow access to information from the consumer's credit
 110 report by a specific party or for a limited period of time while
 111 the security freeze is in effect.

112 (10) A security freeze shall remain in place until the
 113 consumer requests that the security freeze be removed. A
 114 consumer credit reporting agency shall remove a security freeze
 115 within 3 business days of receiving a request for removal from
 116 the consumer, who, upon making the request for removal, must
 117 provide the following:

118 (a) Proper identification as determined by the consumer
 119 credit reporting agency.

120 (b) The unique personal identification number or password
 121 provided by the credit reporting agency pursuant to subsection
 122 (3).

123 (11) A consumer credit reporting agency must require
 124 proper identification of any person making a request to place or
 125 remove a security freeze.

126 (12) The provisions of this section do not apply to the
 127 use of a consumer credit report by the following persons or
 128 entities or for the following reasons:

129 (a) A person or entity, or a subsidiary, affiliate, or
 130 agent of the person or entity, or an assignee of a financial
 131 obligation owed by the consumer to the person or entity, or a
 132 prospective assignee of a financial obligation owed by the
 133 consumer to the person or entity in conjunction with the
 134 proposed purchase of the financial obligation, with which the
 135 consumer has or had prior to assignment an account or contract,
 136 including a demand deposit account, or to whom the consumer
 137 issued a negotiable instrument, for the purposes of reviewing
 138 the account or collecting the financial obligation owed for the
 139 account, contract, or negotiable instrument. For purposes of

140 this paragraph, "reviewing the account" includes activities
141 related to account maintenance, monitoring, credit line
142 increases, and account upgrades and enhancements.

143 (b) A subsidiary, affiliate, agent, assignee, or
144 prospective assignee of a person to whom access has been granted
145 for purposes of facilitating the extension of credit or other
146 permissible use.

147 (c) Any state or local agency, law enforcement agency,
148 trial court, or private collection agency acting pursuant to a
149 court order, warrant, or subpoena.

150 (d) A child support agency acting pursuant to Title IV-D
151 of the Social Security Act.

152 (e) The Florida Department of Health or its agents or
153 assigns acting to investigate Medicaid fraud.

154 (f) The Department of Financial Services or its agents or
155 assigns acting to investigate or collect delinquent taxes or
156 unpaid court orders or to fulfill any of its other statutory
157 responsibilities.

158 (g) The use of credit information for the purposes of
159 prescreening as provided for by the federal Fair Credit
160 Reporting Act.

161 (13) Nothing in this act shall prevent a consumer credit
162 reporting agency from charging a reasonable fee to a consumer
163 who elects to place, remove, or temporarily lift a security
164 freeze on a consumer credit report, except that a consumer
165 credit reporting agency may not charge a fee to a victim of
166 identity theft who has submitted a valid police report, or a

167 valid investigative report with the Department of Highway Safety
 168 and Motor Vehicles, that alleges such a violation.

169 (14) If a security freeze is in effect, a consumer credit
 170 reporting agency shall not change any of the following official
 171 information in a consumer credit report without sending a
 172 written confirmation of the change to the consumer within 30
 173 days of the change being posted to the consumer's file:

- 174 (a) Name.
- 175 (b) Address.
- 176 (c) Date of birth.
- 177 (d) Social security number.

178
 179 Written confirmation is not required for technical modifications
 180 of a consumer's official information, including name and street
 181 abbreviations, complete spellings, or transposition of numbers
 182 or letters. In the case of an address change, the written
 183 confirmation shall be sent to both the new address and to the
 184 former address.

185 (15) The provisions of this section do not apply to a
 186 consumer credit reporting agency that acts only as a reseller of
 187 credit information by assembling and merging information
 188 contained in the database of another consumer credit reporting
 189 agency or multiple consumer credit reporting agencies and does
 190 not maintain a permanent database of credit information from
 191 which new consumer credit reports are produced. However, a
 192 consumer credit reporting agency shall honor any security freeze
 193 placed on a consumer credit report by another consumer credit
 194 reporting agency.

195 (16) The following entities are not required to place a
 196 security freeze on a consumer credit report:

197 (a) A check services company, which issues authorizations
 198 for the purpose of approving or processing negotiable
 199 instruments, electronic funds transfers, or similar methods of
 200 payment.

201 (b) A demand deposit account information service company,
 202 which issues reports regarding account closures due to fraud,
 203 substantial overdrafts, automatic teller machine abuse, or
 204 similar negative information regarding a consumer to inquiring
 205 banks or other financial institutions for use only in reviewing
 206 a consumer request for a demand deposit account at the inquiring
 207 bank or financial institution.

208 (17) In addition to any other penalties or remedies
 209 provided under law, a person who is aggrieved by violation of
 210 the provisions of this section may bring a civil action in any
 211 court of competent jurisdiction against any person or entity,
 212 including a consumer credit reporting agency, for recovery of
 213 actual and consequential damages, court costs, and attorney's
 214 fees. No provision in this section shall be construed to limit
 215 any right or remedy provided under law.

216 (18) Any written disclosure by a consumer credit reporting
 217 agency to any consumer pursuant to this section shall include a
 218 written summary of all rights the consumer has under this act,
 219 and, in the case of a consumer credit reporting agency which
 220 compiles and maintains consumer credit reports on a nationwide
 221 basis, a toll-free telephone number which the consumer can use
 222 to communicate with the consumer credit reporting agency. The

223 written summary of rights required under this section is
 224 sufficient if it is in substantially the following form:

225
 226 You have a right to place a "security freeze" on your
 227 credit report, which will prohibit a consumer credit reporting
 228 agency from releasing any information in your credit report
 229 without your express authorization. A security freeze must be
 230 requested in writing by certified mail. The security freeze is
 231 designed to prevent credit, loans, and services from being
 232 approved in your name without your consent. However, you should
 233 be aware that using a security freeze to take control over who
 234 gets access to the personal and financial information in your
 235 credit report may delay, interfere with, or prohibit the timely
 236 approval of any subsequent request or application you make
 237 regarding a new loan, credit, mortgage, insurance, government
 238 services or payments, rental housing, employment, investment,
 239 license, cellular phone, utilities, digital signature, Internet
 240 credit card transaction, or other services, including an
 241 extension of credit at point of sale. When you place a security
 242 freeze on your credit report, you will be provided a personal
 243 identification number or password to use if you choose to remove
 244 the freeze on your credit report or authorize the release of
 245 your credit report to a specific party or for a designated
 246 period of time after the security freeze is in place. To provide
 247 that authorization, you must contact the consumer credit
 248 reporting agency and provide all of the following:

- 249 (1) The personal identification number or password.
- 250 (2) Proper identification to verify your identity.

251 (3) The proper information regarding the third party who
252 is to receive the credit report or the period of time for which
253 the report shall be made available.

254

255 A consumer credit reporting agency must authorize the
256 release of your credit report no later than 3 business days
257 after receiving the above information.

258 A security freeze does not apply to a person or entity, or
259 its affiliates, or collection agencies acting on behalf of the
260 person or entity, with which you have an existing account, that
261 requests information in your credit report for the purposes of
262 reviewing or collecting the account. Reviewing the account
263 includes activities related to account maintenance, monitoring,
264 credit line increases, and account upgrades and enhancements.

265 You have the right to bring a civil action against anyone,
266 including a consumer credit reporting agency, who fails to
267 comply with the provisions of section 501.005, Florida Statutes,
268 which governs the placing of a consumer credit report security
269 freeze on your consumer credit report. This includes the right
270 to bring a civil action against anyone who improperly obtains
271 access to your consumer credit report or information contained
272 within the report or who knowingly or willfully misuses data or
273 information contained within the report during the period of
274 time in which a requested security freeze was in effect or
275 should have been in effect.

276 Section 2. This act shall take effect July 1, 2006.