

CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends  
2 the following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6  
7 A bill to be entitled  
8 An act relating to security of consumer credit report  
9 information; creating s. 501.005, F.S.; authorizing a  
10 consumer to place a security freeze on his or her consumer  
11 credit report; defining "consumer credit report security  
12 freeze"; providing procedures and requirements with  
13 respect to the placement, temporary suspension, and  
14 removal of a security freeze on a consumer credit report;  
15 authorizing a consumer to allow specified temporary access  
16 to his or her credit report during a security freeze;  
17 providing procedures with respect to such temporary  
18 access; providing for removal of a security freeze when a  
19 consumer's credit report was frozen due to a material  
20 misrepresentation of fact by the consumer; providing  
21 applicability; prohibiting a consumer credit reporting  
22 agency from charging a fee to place a security freeze on a  
23 consumer credit report; authorizing consumer credit

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24 reporting agencies to charge a fee to remove or  
 25 temporarily lift a security freeze and to reissue a  
 26 personal identification number or password; restricting  
 27 the change of specified information in a consumer credit  
 28 report when a security freeze is in effect; providing an  
 29 exemption for certain persons or entities; providing for  
 30 civil remedy; providing requirements with respect to  
 31 written disclosure by a consumer credit reporting agency  
 32 of procedures and consumer rights associated with a  
 33 security freeze; providing an effective date.

34  
 35 Be It Enacted by the Legislature of the State of Florida:

36  
 37 Section 1. Section 501.005, Florida Statutes, is created  
 38 to read:

39 501.005 Consumer credit report security freeze.--

40 (1) A consumer may place a security freeze on his or her  
 41 consumer credit report by making a request in writing by  
 42 certified mail to a consumer credit reporting agency. For  
 43 purposes of this section, "consumer credit report security  
 44 freeze" or "security freeze" means a notice placed in a  
 45 consumer's credit report that prohibits a consumer credit  
 46 reporting agency from releasing the consumer's credit report or  
 47 any information contained within the credit report to a third  
 48 party without the express authorization of the consumer. This  
 49 section does not prevent a consumer credit reporting agency from  
 50 advising a third party that a security freeze is in effect with  
 51 respect to the consumer's credit report.

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

55       (3) The consumer credit reporting agency shall send a  
 56 written confirmation of the security freeze to the consumer  
 57 within 5 business days after instituting the security freeze and  
 58 shall provide the consumer with a unique personal identification  
 59 number or password to be used by the consumer when providing  
 60 authorization for the limited release of his or her credit  
 61 report for a designated period of time during the security  
 62 freeze as provided in subsection (4).

63       (4) A consumer may allow his or her credit report to be  
 64 accessed for a designated period of time while a security freeze  
 65 is in effect by contacting the consumer credit reporting agency  
 66 and requesting that the freeze be temporarily lifted. The  
 67 consumer must provide the following information to the consumer  
 68 credit reporting agency as part of the request:

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

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

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

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

80       (6) A consumer credit reporting agency shall use  
 81 telephonic communication or any form of secure electronic media  
 82 to receive and process a request from a consumer pursuant to  
 83 subsection (4) with the goal of processing a request within 15  
 84 minutes after receipt of such request.

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

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

90           (b) If the consumer's credit report was frozen due to a  
 91 material misrepresentation of fact by the consumer. If a  
 92 consumer credit reporting agency intends to remove a security  
 93 freeze on a consumer's credit report pursuant to this paragraph,  
 94 the consumer credit reporting agency shall notify the consumer  
 95 in writing prior to removing the security freeze.

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

102       (9) If a consumer requests a security freeze, the consumer  
 103 credit reporting agency shall disclose to the consumer all  
 104 information relevant to the process of instituting, temporarily  
 105 lifting, and removing a security freeze and shall include the  
 106 disclosure required by subsection (16).

107        (10) A security freeze shall remain in place until the  
 108 consumer requests that it be removed. A consumer credit  
 109 reporting agency shall remove a security freeze within 3  
 110 business days after receiving a request for removal from the  
 111 consumer, who, upon making the request for removal, must provide  
 112 the following:

113        (a) Proper identification as determined by the consumer  
 114 credit reporting agency.

115        (b) The unique personal identification number or password  
 116 provided by the credit reporting agency pursuant to subsection  
 117 (3).

118        (11) The provisions of this section do not apply to the  
 119 use of a consumer credit report by the following persons or for  
 120 the following reasons:

121        (a) A person to whom the consumer owes a financial  
 122 obligation or a subsidiary, affiliate, or agent of the person,  
 123 or an assignee of a financial obligation owed by the consumer to  
 124 the person, or a prospective assignee of a financial obligation  
 125 owed by the consumer to the person in conjunction with the  
 126 proposed purchase of the financial obligation, with which the  
 127 consumer has or had prior to assignment an account or contract,  
 128 including a demand deposit account, or to whom the consumer  
 129 issued a negotiable instrument, for the purposes of reviewing  
 130 the account or collecting the financial obligation owed for the  
 131 account, contract, or negotiable instrument. For purposes of  
 132 this paragraph, "reviewing the account" includes activities  
 133 related to account maintenance, monitoring, credit line  
 134 increases, and account upgrades and enhancements.

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

139       (c) A state agency acting within its lawful investigative  
 140 or regulatory authority.

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

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

145       (f) Any person for the purpose of providing a consumer  
 146 with a copy of the consumer's credit report upon the consumer's  
 147 request.

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

149       (h) The use of credit information for the purposes of  
 150 prescreening as provided for by the federal Fair Credit  
 151 Reporting Act.

152       (12) A consumer credit reporting agency shall not charge a  
 153 consumer a fee to place a security freeze on the consumer's  
 154 credit report. A consumer credit reporting agency may charge a  
 155 reasonable fee, not to exceed \$5, to a consumer who elects to  
 156 remove or temporarily lift a security freeze on his or her  
 157 consumer credit report. A consumer may be charged a reasonable  
 158 fee, not to exceed \$5, if the consumer fails to retain the  
 159 original personal identification number or password provided by  
 160 the consumer credit reporting agency, and the agency must  
 161 reissue the personal identification number or password or

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162 provide a new personal identification number or password to the  
163 consumer.

164 (13) If a security freeze is in effect, a consumer credit  
165 reporting agency shall not change any of the following official  
166 information in a consumer credit report without sending a  
167 written confirmation of the change to the consumer within 30  
168 days after the change is posted to the consumer's file:

169 (a) Name.

170 (b) Address.

171 (c) Date of birth.

172 (d) Social security number.

173

174 Written confirmation is not required for technical corrections  
175 of a consumer's official information, including name and street  
176 abbreviations, complete spellings, or transposition of numbers  
177 or letters. In the case of an address change, the written  
178 confirmation shall be sent to both the new address and the  
179 former address.

180 (14) The provisions of this section do not apply to the  
181 following entities:

182 (a) A check services company, which issues authorizations  
183 for the purpose of approving or processing negotiable  
184 instruments, electronic funds transfers, or similar methods of  
185 payment.

186 (b) A demand deposit account information service company,  
187 which issues reports regarding account closures due to fraud,  
188 substantial overdrafts, automatic teller machine abuse, or  
189 similar negative information regarding a consumer to inquiring

190 banks or other financial institutions for use only in reviewing  
 191 a consumer request for a demand deposit account at the inquiring  
 192 bank or financial institution, as defined in s. 655.005(1)(g) or  
 193 (h).

194 (c) A consumer credit reporting agency that acts only as a  
 195 reseller of credit information by assembling and merging  
 196 information contained in the database of another consumer credit  
 197 reporting agency or multiple consumer credit reporting agencies  
 198 and does not maintain a permanent database of credit information  
 199 from which new consumer credit reports are produced. However, a  
 200 consumer credit reporting agency shall honor any security freeze  
 201 placed on a consumer credit report by another consumer credit  
 202 reporting agency.

203 (15) In addition to any other penalties or remedies  
 204 provided under law, a person who is aggrieved by a knowing or  
 205 willful violation of the provisions of this section may bring a  
 206 civil action in any court of competent jurisdiction against any  
 207 person or entity, including a consumer credit reporting agency,  
 208 for recovery of actual and consequential damages, court costs,  
 209 and attorney's fees.

210 (16) Any written disclosure by a consumer credit reporting  
 211 agency to any consumer pursuant to this section shall include a  
 212 written summary of all rights the consumer has under this  
 213 section, and, in the case of a consumer credit reporting agency  
 214 which compiles and maintains consumer credit reports on a  
 215 nationwide basis, a toll-free telephone number which the  
 216 consumer can use to communicate with the consumer credit  
 217 reporting agency. The written summary of rights required under

218 this section is sufficient if it is in substantially the  
 219 following form:

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

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

246        (3) Information specifying the period of time for which  
 247 the report shall be made available.

248  
 249        A consumer credit reporting agency must authorize the  
 250 release of your credit report no later than 3 business days  
 251 after receiving the above information.

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

259        You have the right to bring a civil action against anyone,  
 260 including a consumer credit reporting agency, who fails to  
 261 comply with the provisions of s. 501.005, Florida Statutes,  
 262 which governs the placing of a consumer credit report security  
 263 freeze on your consumer credit report. This includes the right  
 264 to bring a civil action against any person for recovery of your  
 265 actual and consequential damages, court costs, and attorney's  
 266 fees caused by a knowing or willful violation of the law.

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