

## CHAMBER ACTION

---

1 The Agriculture Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5  
6 A bill to be entitled  
7 An act relating to security of consumer report  
8 information; creating s. 501.005, F.S.; defining "consumer  
9 report security freeze"; authorizing a consumer to place a  
10 security freeze on his or her consumer report; providing  
11 procedures and requirements with respect to the placement,  
12 temporary suspension, and removal of a security freeze on  
13 a consumer report; authorizing a consumer to allow  
14 specified temporary access to his or her consumer report  
15 during a security freeze; providing procedures with  
16 respect to such temporary access; providing for removal of  
17 a security freeze when a consumer report was frozen due to  
18 a material misrepresentation of fact by the consumer;  
19 providing applicability; prohibiting a consumer reporting  
20 agency from charging a fee to a victim of identity theft  
21 who requests a security freeze on a consumer report;  
22 authorizing consumer reporting agencies to charge a fee to  
23 place, remove, or temporarily lift a security freeze and

HB 37 CS

2006  
CS

24 to reissue a personal identification number; restricting  
 25 the change of specified information in a consumer report  
 26 when a security freeze is in effect; specifying  
 27 applicability with respect to certain consumer reporting  
 28 agencies; specifying entities that are exempt from placing  
 29 a security freeze on a consumer report; providing for  
 30 civil remedy; providing requirements with respect to  
 31 written disclosure by a consumer reporting agency of  
 32 procedures and consumer rights associated with a security  
 33 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 report security freeze.--

40 (1) For purposes of this section, "consumer report  
 41 security freeze" or "security freeze" means a notice placed in a  
 42 consumer report that prohibits a consumer reporting agency, as  
 43 defined in 15 U.S.C. s. 1681a(f), from releasing the consumer  
 44 report, credit score, or any information contained within the  
 45 consumer report, to a third party without the express  
 46 authorization of the consumer. This section does not prevent a  
 47 consumer reporting agency from advising a third party that a  
 48 security freeze is in effect with respect to the consumer  
 49 report.

50       (2) A consumer may place a security freeze on his or her  
51 consumer report by making a request in writing by certified mail  
52 to a consumer reporting agency.

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

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

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

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

72       (b) The unique personal identification number or password  
73 provided by the consumer reporting agency pursuant to subsection  
74 (4).

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

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

81       (7) A consumer reporting agency shall develop telephonic  
82 communication or any form of secure electronic media to receive  
83 and process a request from a consumer pursuant to subsection  
84 (5).

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

88       (a) Upon consumer request, pursuant to subsection (5) or  
89 subsection (11).

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

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

102       (10) If a consumer requests a security freeze, the  
103 consumer 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 (17).

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

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

114 (b) The unique personal identification number or password  
115 provided by the consumer reporting agency pursuant to subsection  
116 (4).

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

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

HB 37 CS

2006  
CS

132 related to account maintenance, monitoring, credit line  
133 increases, and account upgrades and enhancements.

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

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

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

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

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

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

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

150 (13) A consumer reporting agency shall not charge any fee  
151 to a victim of identity theft who has submitted, at the time the  
152 security freeze is requested, a copy of a valid investigative or  
153 incident report or complaint with a law enforcement agency about  
154 the unlawful use of the victim's identifying information by  
155 another person. A consumer reporting agency may charge a  
156 reasonable fee, not to exceed \$10, to a consumer who elects to  
157 place, remove, or temporarily lift a security freeze on his or  
158 her consumer report. A consumer may be charged a reasonable fee,  
159 not to exceed \$10, if the consumer fails to retain the original

HB 37 CS

2006  
CS

160 personal identification number or password provided by the  
161 consumer reporting agency, and the agency must reissue the  
162 personal identification number or password or provide a new  
163 personal identification number or password to the consumer.

164 (14) If a security freeze is in effect, a consumer  
165 reporting agency shall not change any of the following official  
166 information in a consumer report without sending a written  
167 confirmation of the change to the consumer within 30 days after  
168 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 (15) 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), or in federal law.

194 (c) A consumer 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  
 197 reporting agency or multiple consumer reporting agencies and  
 198 does not maintain a permanent database of credit information  
 199 from which new consumer reports are produced. However, a  
 200 consumer reporting agency shall honor any security freeze placed  
 201 on a consumer report by another consumer reporting agency.

202 (d) A fraud prevention services company issuing reports to  
 203 prevent or investigate fraud.

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

208 (a) Any person who willfully fails to comply with any  
 209 requirement imposed under this section with respect to any  
 210 consumer is liable to that consumer for actual damages sustained  
 211 by the consumer as a result of the failure or damages of not  
 212 less than \$100 and not more than \$1,000.

213 (b) Any individual who obtains a consumer report under  
 214 false pretenses or knowingly without a permissible purpose is  
 215 liable to the consumer for actual damages sustained by the



HB 37 CS

2006  
CS

216 consumer as a result of the failure or damages of not less than  
217 \$100 and not more than \$1,000, whichever is greater. Any person  
218 who obtains a consumer report from a consumer reporting agency  
219 under false pretenses or knowingly without a permissible purpose  
220 is liable to the consumer reporting agency for actual damages  
221 sustained by the consumer reporting agency or \$1,000, whichever  
222 is greater.

223 (c) Punitive damages may be assessed for willful  
224 violations of this section.

225 (d) Any person who is negligent in failing to comply with  
226 any requirement imposed under this section with respect to any  
227 consumer is liable to that consumer for any actual damages  
228 sustained by the consumer as a result of the failure, plus the  
229 costs of the action together with reasonable attorney's fees.

230 (e) Upon a finding by the court that an unsuccessful  
231 pleading, motion, or other paper filed in connection with an  
232 action under this subsection was filed in bad faith or for  
233 purposes of harassment, the court shall award to the prevailing  
234 party attorney's fees that are reasonable in relation to the  
235 work performed in responding to the pleading, motion, or other  
236 paper.

237 (17) Any written disclosure by a consumer reporting agency  
238 to any consumer, pursuant to 15 U.S.C. s. 1681g, shall include a  
239 written summary of all rights the consumer has under this  
240 section, and, in the case of a consumer reporting agency which  
241 compiles and maintains consumer reports on a nationwide basis, a  
242 toll-free telephone number which the consumer can use to  
243 communicate with the consumer reporting agency. The information

HB 37 CS

2006  
CS

244 set forth in paragraph (b) of the written summary of rights must  
245 be in at least 14-point boldface type in capital letters. The  
246 written summary of rights required under this section is  
247 sufficient if it is substantially in the following form:

248 (a) You have a right to place a "security freeze" on your  
249 consumer report, which will prohibit a consumer reporting agency  
250 from releasing any information in your consumer report without  
251 your express authorization. A security freeze must be requested  
252 in writing by certified mail to a consumer reporting agency. The  
253 security freeze is designed to prevent credit, loans, and  
254 services from being approved in your name without your consent.

255 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
256 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR  
257 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE  
258 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU  
259 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,  
260 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,  
261 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL  
262 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES,  
263 INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

264 (c) When you place a security freeze on your consumer  
265 report, you will be provided a personal identification number or  
266 password to use if you choose to remove the freeze on your  
267 consumer report or authorize the release of your consumer report  
268 for a designated period of time after the security freeze is in  
269 place. To provide that authorization, you must contact the  
270 consumer reporting agency and provide all of the following:

271 1. The personal identification number or password.

HB 37 CS

2006  
CS

272        2. Proper identification to verify your identity.

273        3. Information specifying the period of time for which the  
274 report shall be made available.

275        (d) A consumer reporting agency must authorize the release  
276 of your consumer report no later than 3 business days after  
277 receiving the above information.

278        (e) A security freeze does not apply to a person or  
279 entity, or its affiliates, or collection agencies acting on  
280 behalf of the person or entity, with which you have an existing  
281 account, that requests information in your consumer report for  
282 the purposes of reviewing or collecting the account. Reviewing  
283 the account includes activities related to account maintenance,  
284 monitoring, credit line increases, and account upgrades and  
285 enhancements.

286        (f) You have the right to bring a civil action against  
287 anyone, including a consumer reporting agency, who fails to  
288 comply with the provisions of s. 501.005, Florida Statutes,  
289 which governs the placing of a consumer report security freeze  
290 on your consumer report.

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