

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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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

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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.

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

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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 doing business in this
82 state shall develop telephonic communication or any form of
83 secure electronic media to receive and process a request from a
84 consumer pursuant to subsection (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

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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

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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.

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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,

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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 of not less than \$100
212 and not more than \$1,000, plus the cost of the action together
213 with reasonable attorney's fees.

214 (b) Any individual who obtains a consumer report under
215 false pretenses or knowingly without a permissible purpose is

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

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

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

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

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

244 consumer can use to communicate with the consumer reporting
245 agency. The information set forth in paragraph (b) of the
246 written summary of rights must be in at least 14-point boldface
247 type in capital letters. The written summary of rights required
248 under this section is sufficient if it is substantially in the
249 following form:

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

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

266 (c) When you place a security freeze on your consumer
267 report, you will be provided a personal identification number or
268 password to use if you choose to remove the freeze on your
269 consumer report or authorize the release of your consumer report
270 for a designated period of time after the security freeze is in

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271 place. To provide that authorization, you must contact the
272 consumer reporting agency and provide all of the following:

- 273 1. The personal identification number or password.
274 2. Proper identification to verify your identity.
275 3. Information specifying the period of time for which the
276 report shall be made available.

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

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

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

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