

## CHAMBER ACTION

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1 The Commerce Council 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 "security  
9 freeze"; authorizing a consumer to place a security freeze  
10 on his or her consumer report; providing procedures and  
11 requirements with respect to the placement, temporary  
12 suspension, and removal of a security freeze on a consumer  
13 report; authorizing a consumer to allow specified  
14 temporary access to his or her consumer report during a  
15 security freeze; providing procedures with respect to such  
16 temporary access; providing for removal of a security  
17 freeze when a consumer report was frozen due to a material  
18 misrepresentation of fact by the consumer; providing  
19 applicability; prohibiting a consumer reporting agency  
20 from charging a fee to a victim of identity theft who  
21 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.

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, a "security freeze"  
41 means a notice placed in a consumer report that prohibits a  
42 consumer reporting agency, as defined in 15 U.S.C. s. 1681a(f),  
43 from releasing the consumer report, credit score, or any  
44 information contained within the consumer report relating to the  
45 extension of credit 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. For purposes of this part, the term "consumer report"  
50 has the same meaning set forth in 15 U.S.C. s. 1681a(d).

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

53       (a) Making a request in writing by certified mail to a  
54 consumer reporting agency.

55       (b) Including information that properly identifies the  
56 consumer.

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

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

61       (4) The consumer reporting agency shall send a written  
62 confirmation of the security freeze to the consumer within 10  
63 business days after instituting the security freeze and shall  
64 provide the consumer with a unique personal identification  
65 number or password to be used by the consumer when providing  
66 authorization for the removal of a security freeze on his or her  
67 consumer report pursuant to subsection (5) or subsection (11).

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

74       (a) Proper identification as determined by the consumer  
75 reporting agency.

76       (b) The unique personal identification number or password  
77 provided by the consumer reporting agency pursuant to subsection  
78 (4).

79 | (c) Information specifying the period of time for which  
80 | the report shall be made available.

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

82 | (6) A consumer reporting agency that receives a request  
83 | from a consumer to temporarily lift a freeze on a consumer  
84 | report pursuant to subsection (5) shall comply with the request  
85 | no later than 3 business days after receiving the request.

86 | (7) A consumer reporting agency doing business in this  
87 | state shall develop telephonic communication or any form of  
88 | secure electronic media to receive and process a request from a  
89 | consumer pursuant to subsection (5).

90 | (8) A consumer reporting agency shall temporarily lift or  
91 | remove a security freeze placed on a consumer report only in the  
92 | following instances:

93 | (a) Upon consumer request, pursuant to subsection (5) or  
94 | subsection (11).

95 | (b) If the consumer report was frozen due to a material  
96 | misrepresentation of fact by the consumer. If a consumer  
97 | reporting agency intends to remove a security freeze on a  
98 | consumer report pursuant to this paragraph, the consumer  
99 | reporting agency shall notify the consumer in writing prior to  
100 | removing the security freeze.

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

107        (10) If a consumer requests a security freeze, the  
108 consumer reporting agency shall disclose to the consumer all  
109 information relevant to the process of instituting, temporarily  
110 lifting, and removing a security freeze and shall include the  
111 disclosure required by subsection (17).

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

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

119            (b) The unique personal identification number or password  
120 provided by the consumer reporting agency pursuant to subsection  
121 (4).

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

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

126            (a) A person to whom the consumer owes a financial  
127 obligation or a subsidiary, affiliate, or agent of the person,  
128 or an assignee of a financial obligation owed by the consumer to  
129 the person, or a prospective assignee of a financial obligation  
130 owed by the consumer to the person in conjunction with the  
131 proposed purchase of the financial obligation, with which the  
132 consumer has or had prior to assignment an account or contract,  
133 including a deposit account, or to whom the consumer issued a  
134 negotiable instrument, for the purposes of reviewing the account

135 or collecting the financial obligation owed for the account,  
136 contract, or negotiable instrument. For purposes of this  
137 paragraph, "reviewing the account" includes activities related  
138 to account maintenance, monitoring, credit line increases, and  
139 account upgrades and enhancements.

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

144 (c) A state agency acting within its lawful investigative  
145 or regulatory authority.

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

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

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

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

153 (h) The use of credit information for the purposes of  
154 prescreening as provided for by the federal Fair Credit  
155 Reporting Act.

156 (i) Any person in connection with the underwriting of  
157 insurance.

158 (13) A consumer reporting agency shall not charge any fee  
159 to a victim of identity theft who has submitted, at the time the  
160 security freeze is requested, a copy of a valid investigative or  
161 incident report or complaint with a law enforcement agency about  
162 the unlawful use of the victim's identifying information by

163 another person. A consumer reporting agency may charge a  
164 reasonable fee, not to exceed \$10, to a consumer who elects to  
165 place, remove, or temporarily lift a security freeze on his or  
166 her consumer report. A consumer may be charged a reasonable fee,  
167 not to exceed \$10, if the consumer fails to retain the original  
168 personal identification number or password provided by the  
169 consumer reporting agency, and the agency must reissue the  
170 personal identification number or password or provide a new  
171 personal identification number or password to the consumer.

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

- 177 (a) Name.  
178 (b) Address.  
179 (c) Date of birth.  
180 (d) Social security number.

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

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

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190       (a) A check services company, which issues authorizations  
191 for the purpose of approving or processing negotiable  
192 instruments, electronic funds transfers, or similar methods of  
193 payment.

194       (b) A deposit account information service company, which  
195 issues reports regarding account closures due to fraud,  
196 substantial overdrafts, automatic teller machine abuse, or  
197 similar negative information regarding a consumer to inquiring  
198 banks or other financial institutions for use only in reviewing  
199 a consumer request for a deposit account at the inquiring bank  
200 or financial institution, as defined in s. 655.005(1)(g) or (h),  
201 or in federal law.

202       (c) A consumer reporting agency that acts only as a  
203 reseller of credit information by assembling and merging  
204 information contained in the database of another consumer  
205 reporting agency or multiple consumer reporting agencies and  
206 does not maintain a permanent database of credit information  
207 from which new consumer reports are produced. However, a  
208 consumer reporting agency shall honor any security freeze placed  
209 on a consumer report by another consumer reporting agency.

210       (d) A fraud prevention services company issuing reports to  
211 prevent or investigate fraud.

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

216       (a) Any person who willfully fails to comply with any  
217 requirement imposed under this section with respect to any



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218 consumer is liable to that consumer for actual damages sustained  
219 by the consumer as a result of the failure of not less than \$100  
220 and not more than \$1,000, plus the cost of the action together  
221 with reasonable attorney's fees.

222 (b) Any individual who obtains a consumer report under  
223 false pretenses or knowingly without a permissible purpose is  
224 liable to the consumer for actual damages sustained by the  
225 consumer as a result of the failure or damages of not less than  
226 \$100 and not more than \$1,000, whichever is greater. Any person  
227 who obtains a consumer report from a consumer reporting agency  
228 under false pretenses or knowingly without a permissible purpose  
229 is liable to the consumer reporting agency for actual damages  
230 sustained by the consumer reporting agency or \$1,000, whichever  
231 is greater.

232 (c) Punitive damages may be assessed for willful  
233 violations of this section.

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

239 (e) Upon a finding by the court that an unsuccessful  
240 pleading, motion, or other paper filed in connection with an  
241 action under this subsection was filed in bad faith or for  
242 purposes of harassment, the court shall award to the prevailing  
243 party attorney's fees that are reasonable in relation to the  
244 work performed in responding to the pleading, motion, or other  
245 paper.

246       (17) Any written disclosure by a consumer reporting  
247 agency, pursuant to 15 U.S.C. s. 1681g, to any consumer residing  
248 in this state shall include a written summary of all rights the  
249 consumer has under this section, and, in the case of a consumer  
250 reporting agency which compiles and maintains consumer reports  
251 on a nationwide basis, a toll-free telephone number which the  
252 consumer can use to communicate with the consumer reporting  
253 agency. The information set forth in paragraph (b) of the  
254 written summary of rights must be in at least 14-point boldface  
255 type in capital letters. The written summary of rights required  
256 under this section is sufficient if it is substantially in the  
257 following form:

258       (a) You have a right to place a "security freeze" on your  
259 consumer report, which will prohibit a consumer reporting agency  
260 from releasing any information in your consumer report without  
261 your express authorization. A security freeze must be requested  
262 in writing by certified mail to a consumer reporting agency. The  
263 security freeze is designed to prevent credit, loans, and  
264 services from being approved in your name without your consent.

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

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274 (c) When you place a security freeze on your consumer  
275 report, you will be provided a personal identification number or  
276 password to use if you choose to remove the freeze on your  
277 consumer report or authorize the release of your consumer report  
278 for a designated period of time after the security freeze is in  
279 place. To provide that authorization, you must contact the  
280 consumer reporting agency and provide all of the following:

- 281 1. The personal identification number or password.
- 282 2. Proper identification to verify your identity.
- 283 3. Information specifying the period of time for which the  
284 report shall be made available.
- 285 4. Payment of a fee authorized by this section.

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

289 (e) A security freeze does not apply to a person or  
290 entity, or its affiliates, or collection agencies acting on  
291 behalf of the person or entity, with which you have an existing  
292 account, that requests information in your consumer report for  
293 the purposes of reviewing or collecting the account. Reviewing  
294 the account includes activities related to account maintenance,  
295 monitoring, credit line increases, and account upgrades and  
296 enhancements.

297 (f) You have the right to bring a civil action against  
298 anyone, including a consumer reporting agency, who fails to  
299 comply with the provisions of s. 501.005, Florida Statutes,  
300 which governs the placing of a consumer report security freeze  
301 on your consumer report.

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