

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

27 | rights associated with a security freeze; providing an  
 28 | effective date.

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

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

34 | 501.005 Consumer report security freeze.--

35 | (1) For purposes of this section, a "security freeze"  
 36 | means a notice placed in a consumer report that prohibits a  
 37 | consumer reporting agency, as defined in 15 U.S.C. s. 1681a(f),  
 38 | from releasing the consumer report, credit score, or any  
 39 | information contained within the consumer report to a third  
 40 | party without the express authorization of the consumer. This  
 41 | section does not prevent a consumer reporting agency from  
 42 | advising a third party that a security freeze is in effect with  
 43 | respect to the consumer report. For purposes of this part, the  
 44 | term "consumer report" has the same meaning set forth in 15  
 45 | U.S.C. s. 1681a(d).

46 | (2) A consumer may place a security freeze on his or her  
 47 | consumer report by:

48 | (a) Making a request in writing by certified mail to a  
 49 | consumer reporting agency.

50 | (b) Including information that properly identifies the  
 51 | consumer.

52 | (c) Paying a fee authorized under this section.

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 10  
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 removal of a security freeze on his or her  
62 consumer report pursuant to subsection (5) or subsection (11).

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

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

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

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

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

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) No later than July 1, 2007, a consumer reporting  
82 agency doing business in this state shall select and develop a  
83 secure electronic contact method, which may include the use of  
84 telephone, fax, the Internet, or other secure electronic means,  
85 by which to receive and process requests from consumers to  
86 temporarily lift a freeze on a consumer report pursuant to  
87 subsection (5).

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

91 (a) Upon consumer request, pursuant to subsection (5) or  
92 subsection (11).

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

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

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

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

115           (a) Proper identification as determined by the consumer  
116 reporting agency.

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

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

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

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

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

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

142 (c) A state agency acting within its lawful investigative  
143 or regulatory authority.

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

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

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

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

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

154 (i) Any insurance company for use in setting or adjusting  
155 a rate, adjusting a claim, or underwriting for insurance  
156 purposes.

157        (j) A consumer reporting agency's database or file which  
158 consists entirely of information concerning, and is used solely  
159 for, one or more of the following:

- 160            1. Criminal record information.
- 161            2. Personal loss history information.
- 162            3. Fraud prevention or detection.
- 163            4. Tenant screening.
- 164            5. Employment screening.

165        (13) (a) A consumer reporting agency may charge a  
166 reasonable fee, not to exceed \$10, to a consumer who elects to  
167 place, remove, or temporarily lift a security freeze on his or  
168 her consumer report.

169        (b) A consumer reporting agency shall not charge any fee:

- 170            1. To a consumer 65 years of age or older for the initial  
171 placement or removal of a security freeze; or
- 172            2. To a victim of identity theft who has submitted, at the  
173 time the security freeze is requested, a copy of a valid  
174 investigative or incident report or complaint with a law  
175 enforcement agency about the unlawful use of the victim's  
176 identifying information by another person.

177        (c) A consumer reporting agency may charge a reasonable  
178 fee, not to exceed \$10, if the consumer fails to retain the  
179 original personal identification number or password provided by  
180 the consumer reporting agency and the agency must reissue the  
181 personal identification number or password or provide a new  
182 personal identification number or password to the consumer.

183           (14) If a security freeze is in effect, a consumer  
184 reporting agency shall not change any of the following official  
185 information in a consumer report without sending a written  
186 confirmation of the change to the consumer within 30 days after  
187 the change is posted to the consumer's file:

188           (a) Name.

189           (b) Address.

190           (c) Date of birth.

191           (d) Social security number.

192  
193 Written confirmation is not required for technical corrections  
194 of a consumer's official information, including name and street  
195 abbreviations, complete spellings, or transposition of numbers  
196 or letters. In the case of an address change, the written  
197 confirmation shall be sent to both the new address and the  
198 former address.

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

201           (a) A check services company, which issues authorizations  
202 for the purpose of approving or processing negotiable  
203 instruments, electronic funds transfers, or similar methods of  
204 payment.

205           (b) A deposit account information service company, which  
206 issues reports regarding account closures due to fraud,  
207 substantial overdrafts, automatic teller machine abuse, or  
208 similar negative information regarding a consumer to inquiring  
209 banks or other financial institutions for use only in reviewing



210 a consumer request for a deposit account at the inquiring bank  
211 or financial institution, as defined in s. 655.005(1)(g) or (h),  
212 or in federal law.

213 (c) A consumer reporting agency that acts only as a  
214 reseller of credit information by assembling and merging  
215 information contained in the database of another consumer  
216 reporting agency or multiple consumer reporting agencies and  
217 does not maintain a permanent database of credit information  
218 from which new consumer reports are produced. However, a  
219 consumer reporting agency shall honor any security freeze  
220 placed, removed, or temporary lifted on a consumer report by  
221 another consumer reporting agency.

222 (d) A fraud prevention services company issuing reports to  
223 prevent or investigate fraud.

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

228 (a) Any person who willfully fails to comply with any  
229 requirement imposed under this section with respect to any  
230 consumer is liable to that consumer for actual damages sustained  
231 by the consumer as a result of the failure of not less than \$100  
232 and not more than \$1,000, plus the cost of the action together  
233 with reasonable attorney's fees.

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

237 consumer as a result of the failure or damages of not less than  
238 \$100 and not more than \$1,000, whichever is greater. Any person  
239 who obtains a consumer report from a consumer reporting agency  
240 under false pretenses or knowingly without a permissible purpose  
241 is liable to the consumer reporting agency for actual damages  
242 sustained by the consumer reporting agency or \$1,000, whichever  
243 is greater.

244 (c) Punitive damages may be assessed for willful  
245 violations of this section.

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

251 (e) Upon a finding by the court that an unsuccessful  
252 pleading, motion, or other paper filed in connection with an  
253 action under this subsection was filed in bad faith or for  
254 purposes of harassment, the court shall award to the prevailing  
255 party attorney's fees that are reasonable in relation to the  
256 work performed in responding to the pleading, motion, or other  
257 paper.

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

264 consumer can use to communicate with the consumer reporting  
265 agency. The information set forth in paragraph (b) of the  
266 written summary of rights must be in at least 12-point boldface  
267 type. The written summary of rights required under this section  
268 is sufficient if it is substantially in the following form:

269 (a) You have a right to place a "security freeze" on your  
270 consumer report, which will prohibit a consumer reporting agency  
271 from releasing any information in your consumer report without  
272 your express authorization. A security freeze must be requested  
273 in writing by certified mail to a consumer reporting agency. The  
274 security freeze is designed to prevent credit, loans, and  
275 services from being approved in your name without your consent.

276 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
277 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR  
278 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE  
279 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU  
280 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,  
281 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,  
282 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL  
283 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES,  
284 INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

285 (c) When you place a security freeze on your consumer  
286 report, you will be provided a personal identification number or  
287 password to use if you choose to remove the freeze on your  
288 consumer report or authorize the release of your consumer report  
289 for a designated period of time after the security freeze is in

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

- 292 1. The personal identification number or password.
- 293 2. Proper identification to verify your identity.
- 294 3. Information specifying the period of time for which the  
295 report shall be made available.
- 296 4. Payment of a fee authorized by this section.

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

300 (e) A security freeze does not apply to a person or  
301 entity, or its affiliates, or collection agencies acting on  
302 behalf of the person or entity, with which you have an existing  
303 account, that requests information in your consumer report for  
304 the purposes of reviewing or collecting the account. Reviewing  
305 the account includes activities related to account maintenance,  
306 monitoring, credit line increases, and account upgrades and  
307 enhancements.

308 (f) You have the right to bring a civil action against  
309 anyone, including a consumer reporting agency, who fails to  
310 comply with the provisions of s. 501.005, Florida Statutes,  
311 which governs the placing of a consumer report security freeze  
312 on your consumer report.

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