

Bill No. SB 656

Barcode 804820

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Lynn)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

501.005 Consumer report security freeze.--

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

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1 1681a(d).

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

4 1. Making a request in writing by certified mail to a
5 consumer reporting agency;

6 2. Including information that properly identifies the
7 consumer; and

8 3. Paying a fee authorized under this section.

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

12 (4) The consumer reporting agency shall send a written
13 confirmation of the security freeze to the consumer within 10
14 business days after instituting the security freeze and shall
15 provide the consumer with a unique personal identification
16 number or password to be used by the consumer when providing
17 authorization for the removal of a security freeze on his or
18 her consumer report pursuant to subsection (5) or subsection
19 (11).

20 (5) A consumer may allow his or her consumer report to
21 be accessed for a designated period of time while a security
22 freeze is in effect by contacting the consumer reporting
23 agency and requesting that the freeze be temporarily lifted.
24 The consumer must provide the following information to the
25 consumer reporting agency as part of the request:

26 (a) Proper identification as determined by the
27 consumer reporting agency.

28 (b) The unique personal identification number or
29 password provided by the consumer reporting agency pursuant to
30 subsection (4).

31 (c) Information specifying the period of time for

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1 which the report shall be made available.

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

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

8 (7) A consumer reporting agency doing business in this
9 state shall develop telephonic communication or any form of
10 secure electronic media to receive and process a request from
11 a consumer pursuant to subsection (5).

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

15 (a) Upon consumer request, pursuant to subsection (5)
16 or subsection (11).

17 (b) If the consumer report was frozen due to a
18 material misrepresentation of fact by the consumer. If a
19 consumer reporting agency intends to remove a security freeze
20 on a consumer report pursuant to this paragraph, the consumer
21 reporting agency shall notify the consumer in writing prior to
22 removing the security freeze.

23 (9) A third party requesting access to a consumer
24 report on which a security freeze is in effect in connection
25 with an application for credit or other permissible use may
26 treat the application as incomplete if the consumer has not
27 authorized a temporary lifting of the security freeze for the
28 period of time during which the request is made.

29 (10) If a consumer requests a security freeze, the
30 consumer reporting agency shall disclose to the consumer all
31 information relevant to the process of instituting,

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1 temporarily lifting, and removing a security freeze and shall
2 include the disclosure required by subsection (17).

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

9 (a) Proper identification as determined by the
10 consumer reporting agency.

11 (b) The unique personal identification number or
12 password provided by the consumer reporting agency pursuant to
13 subsection (4).

14 (c) Payment of a fee authorized under this section.

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

18 (a) A person to whom the consumer owes a financial
19 obligation or a subsidiary, affiliate, or agent of the person,
20 or an assignee of a financial obligation owed by the consumer
21 to the person, or a prospective assignee of a financial
22 obligation owed by the consumer to the person in conjunction
23 with the proposed purchase of the financial obligation, with
24 which the consumer has or had prior to assignment an account
25 or contract, including a deposit account, or to whom the
26 consumer issued a negotiable instrument, for the purposes of
27 reviewing the account or collecting the financial obligation
28 owed for the account, contract, or negotiable instrument. For
29 purposes of this paragraph, "reviewing the account" includes
30 activities related to account maintenance, monitoring, credit
31 line increases, and account upgrades and enhancements.

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

5 (c) A state agency acting within its lawful
 6 investigative or regulatory authority.

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

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

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

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

15 (h) The use of credit information for the purposes of
 16 prescreening as provided for by the federal Fair Credit
 17 Reporting Act.

18 (i) Any person in connection with the underwriting of
 19 insurance.

20 (13) A consumer reporting agency shall not charge any
 21 fee to a victim of identity theft who has submitted, at the
 22 time the security freeze is requested, a copy of a valid
 23 investigative or incident report or complaint with a law
 24 enforcement agency about the unlawful use of the victim's
 25 identifying information by another person. A consumer
 26 reporting agency may charge a reasonable fee, not to exceed
 27 \$10, to a consumer who elects to place, remove, or temporarily
 28 lift a security freeze on his or her consumer report. A
 29 consumer may be charged a reasonable fee, not to exceed \$10,
 30 if the consumer fails to retain the original personal
 31 identification number or password provided by the consumer

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1 reporting agency, and the agency must reissue the personal
2 identification number or password or provide a new personal
3 identification number or password to the consumer.

4 (14) If a security freeze is in effect, a consumer
5 reporting agency shall not change any of the following
6 official information in a consumer report without sending a
7 written confirmation of the change to the consumer within 30
8 days after the change is posted to the consumer's file:

- 9 (a) Name.
- 10 (b) Address.
- 11 (c) Date of birth.
- 12 (d) Social security number.

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14 Written confirmation is not required for technical corrections
15 of a consumer's official information, including name and
16 street abbreviations, complete spellings, or transposition of
17 numbers or letters. In the case of an address change, the
18 written confirmation shall be sent to both the new address and
19 the former address.

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

22 (a) A check services company, which issues
23 authorizations for the purpose of approving or processing
24 negotiable instruments, electronic funds transfers, or similar
25 methods of payment.

26 (b) A deposit account information service company,
27 which issues reports regarding account closures due to fraud,
28 substantial overdrafts, automatic teller machine abuse, or
29 similar negative information regarding a consumer to inquiring
30 banks or other financial institutions for use only in
31 reviewing a consumer request for a deposit account at the

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1 inquiring bank or financial institution, as defined in s.
2 655.005(1)(g) or (h), or in federal law.

3 (c) A consumer reporting agency that acts only as a
4 reseller of credit information by assembling and merging
5 information contained in the database of another consumer
6 reporting agency or multiple consumer reporting agencies and
7 does not maintain a permanent database of credit information
8 from which new consumer reports are produced. However, a
9 consumer reporting agency shall honor any security freeze
10 placed on a consumer report by another consumer reporting
11 agency.

12 (d) A fraud prevention services company issuing
13 reports to prevent or investigate fraud.

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

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

24 (b) Any individual who obtains a consumer report under
25 false pretenses or knowingly without a permissible purpose is
26 liable to the consumer for actual damages sustained by the
27 consumer as a result of the failure or damages of not less
28 than \$100 and not more than \$1,000, whichever is greater. Any
29 person who obtains a consumer report from a consumer reporting
30 agency under false pretenses or knowingly without a
31 permissible purpose is liable to the consumer reporting agency

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1 for actual damages sustained by the consumer reporting agency
2 or \$1,000, whichever is greater.

3 (c) Punitive damages may be assessed for willful
4 violations of this section.

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

10 (e) Upon a finding by the court that an unsuccessful
11 pleading, motion, or other paper filed in connection with an
12 action under this subsection was filed in bad faith or for
13 purposes of harassment, the court shall award to the
14 prevailing party attorney's fees that are reasonable in
15 relation to the work performed in responding to the pleading,
16 motion, or other paper.

17 (17) Any written disclosure by a consumer reporting
18 agency, pursuant to 15 U.S.C. s. 1681q, to any consumer
19 residing in this state shall include a written summary of all
20 rights the consumer has under this section, and, in the case
21 of a consumer reporting agency which compiles and maintains
22 consumer reports on a nationwide basis, a toll-free telephone
23 number that the consumer can use to communicate with the
24 consumer reporting agency. The information set forth in
25 paragraph (b) of the written summary of rights must be in at
26 least 14-point boldface type in capital letters. The written
27 summary of rights required under this section is sufficient if
28 it is substantially in the following form:

29 (a) You have a right to place a "security freeze" on
30 your consumer report, which will prohibit a consumer reporting
31 agency from releasing any information in your consumer report

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1 without your express authorization. A security freeze must be
2 requested in writing by certified mail to a consumer reporting
3 agency. The security freeze is designed to prevent credit,
4 loans, and services from being approved in your name without
5 your consent.

6 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE
7 TO CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN
8 YOUR CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT
9 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
10 YOU MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,
11 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,
12 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL
13 SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER
14 SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE.

15 (c) When you place a security freeze on your consumer
16 report, you will be provided a personal identification number
17 or password to use if you choose to remove the freeze on your
18 consumer report or authorize the release of your consumer
19 report for a designated period of time after the security
20 freeze is in place. To provide that authorization, you must
21 contact the consumer reporting agency and provide all of the
22 following:

- 23 1. The personal identification number or password.
- 24 2. Proper identification to verify your identity.
- 25 3. Information specifying the period of time for which
26 the report shall be made available.
- 27 4. Payment of a fee authorized under this section.

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

31 (e) A security freeze does not apply to a person or

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1 entity, or its affiliates, or collection agencies acting on
 2 behalf of the person or entity, with which you have an
 3 existing account, which requests information in your consumer
 4 report for the purposes of reviewing or collecting the
 5 account. Reviewing the account includes activities related to
 6 account maintenance, monitoring, credit line increases, and
 7 account upgrades and enhancements.

8 (f) You have the right to bring a civil action against
 9 anyone, including a consumer reporting agency, who fails to
 10 comply with the provisions of s. 501.005, Florida Statutes,
 11 which governs the placing of a consumer report security freeze
 12 on your consumer report.

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

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause

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20 and insert:

21 A bill to be entitled

22 An act relating to security of consumer report
 23 information; creating s. 501.005, F.S. ;
 24 defining the term "security freeze";
 25 authorizing a consumer to place a security
 26 freeze on his or her consumer report; providing
 27 procedures and requirements with respect to the
 28 placement, temporary suspension, and removal of
 29 a security freeze on a consumer report;
 30 authorizing a consumer to allow specified
 31 temporary access to his or her consumer report

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1 during a security freeze; providing procedures
2 with respect to such temporary access;
3 providing for removal of a security freeze when
4 a consumer report is frozen due to a material
5 misrepresentation of fact by the consumer;
6 providing applicability; prohibiting a consumer
7 reporting agency from charging a fee to a
8 victim of identity theft who requests a
9 security freeze on a consumer report;
10 authorizing consumer reporting agencies to
11 charge a fee to place, remove, or temporarily
12 lift a security freeze and to reissue a
13 personal identification number; restricting the
14 change of specified information in a consumer
15 report when a security freeze is in effect;
16 specifying applicability with respect to
17 certain consumer reporting agencies; specifying
18 entities that are exempt from placing a
19 security freeze on a consumer report; providing
20 for civil remedy; providing requirements with
21 respect to written disclosure by a consumer
22 reporting agency of procedures and consumer
23 rights associated with a security freeze;
24 providing an effective date.

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