

Bill No. CS for CS for SB 656

Barcode 880236

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Floor: 1/AD/3R  
04/26/2006 05:15 PM

11 Senator Peaden moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 On page 2, line 19, through

15 page 9, line 28, delete those lines

16

17 and insert: information contained within the consumer report

18 to a third party without the express authorization of the

19 consumer. This section does not prevent a consumer reporting

20 agency from advising a third party that a security freeze is

21 in effect with respect to the consumer report. For purposes of

22 this part, the term "consumer report" has the same meaning set

23 forth in 15 U.S.C. s. 1681a(d).

24 (2) A consumer may place a security freeze on his or

25 her consumer report by:

26 (a) Making a request in writing by certified mail to a

27 consumer reporting agency.

28 (b) Including information that properly identifies the

29 consumer.

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

31 (3) A consumer reporting agency shall place a security

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1 freeze on a consumer report no later than 5 business days  
2 after receiving a request from the consumer.

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

11 (5) A consumer may allow his or her consumer report to  
12 be accessed for a designated period of time while a security  
13 freeze is in effect by contacting the consumer reporting  
14 agency and requesting that the freeze be temporarily lifted.  
15 The consumer must provide the following information to the  
16 consumer reporting agency as part of the request:

17 (a) Proper identification as determined by the  
18 consumer reporting agency.

19 (b) The unique personal identification number or  
20 password provided by the consumer reporting agency pursuant to  
21 subsection (4).

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

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

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

30 (7) No later than July 1, 2007, a consumer reporting  
31 agency doing business in this state shall select and develop a

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1 secure electronic contact method, which may include the use of  
2 telephone, fax, the Internet, or other secure electronic  
3 means, by which to receive and process requests from consumers  
4 to temporarily lift a freeze on a consumer report pursuant to  
5 subsection (5).

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

9 (a) Upon consumer request, pursuant to subsection (5)  
10 or subsection (11).

11 (b) If the consumer report was frozen due to a  
12 material misrepresentation of fact by the consumer. If a  
13 consumer reporting agency intends to remove a security freeze  
14 on a consumer report pursuant to this paragraph, the consumer  
15 reporting agency must notify the consumer in writing before  
16 removing the security freeze.

17 (9) A third party requesting access to a consumer  
18 report on which a security freeze is in effect in connection  
19 with an application for credit or other permissible use may  
20 treat the application as incomplete if the consumer has not  
21 authorized a temporary lifting of the security freeze for the  
22 period of time during which the request is made.

23 (10) If a consumer requests a security freeze, the  
24 consumer reporting agency shall disclose to the consumer all  
25 information relevant to the process of instituting,  
26 temporarily lifting, and removing a security freeze and shall  
27 include the disclosure required by subsection (17).

28 (11) A security freeze shall remain in place until the  
29 consumer requests that it be removed. A consumer reporting  
30 agency shall remove a security freeze within 3 business days  
31 after receiving a request for removal from the consumer, who,

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1 upon making the request for removal, must provide the  
2 following:

3 (a) Proper identification as determined by the  
4 consumer reporting agency.

5 (b) The unique personal identification number or  
6 password provided by the consumer reporting agency pursuant to  
7 subsection (4).

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

9 (12) This section does not apply to the use of a  
10 consumer report by the following persons or for the following  
11 reasons:

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

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

30 (c) A state agency acting within its lawful  
31 investigative or regulatory authority.

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

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

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

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

9 (h) The use of credit information for the purposes of  
10 prescreening as provided for by the federal Fair Credit  
11 Reporting Act.

12 (i) Any insurance company for use in setting or  
13 adjusting a rate, adjusting a claim, or underwriting for  
14 insurance purposes.

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

- 18 1. Criminal record information.
- 19 2. Personal loss history information.
- 20 3. Fraud prevention or detection.
- 21 4. Tenant screening.
- 22 5. Employment screening.

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

27 (b) A consumer reporting agency may not charge any  
28 fee:

- 29 1. To a consumer 65 years of age or older for the  
30 initial placement or removal of a security freeze; or
- 31 2. To a victim of identity theft who has submitted, at

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1 the time the security freeze is requested, a copy of a valid  
2 investigative or incident report or complaint with a law  
3 enforcement agency about the unlawful use of the victim's  
4 identifying information by another person.

5       (c) A consumer reporting agency may charge a  
6 reasonable fee, not to exceed \$10, if the consumer fails to  
7 retain the original personal identification number or password  
8 provided by the consumer reporting agency and the agency must  
9 reissue the personal identification number or password or  
10 provide a new personal identification number or password to  
11 the consumer.

12       (14) If a security freeze is in effect, a consumer  
13 reporting agency may not change any of the following official  
14 information in a consumer report without sending a written  
15 confirmation of the change to the consumer within 30 days  
16 after the change is posted to the consumer's file:

- 17       (a) Name.
- 18       (b) Address.
- 19       (c) Date of birth.
- 20       (d) Social security number.

21  
22 Written confirmation is not required for technical corrections  
23 of a consumer's official information, including name and  
24 street abbreviations, complete spellings, or transposition of  
25 numbers or letters. In the case of an address change, the  
26 written confirmation must be sent to both the new address and  
27 the former address.

28       (15) This section does not apply to the following  
29 entities:

- 30       (a) A check services company, which issues  
31 authorizations for the purpose of approving or processing

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1 negotiable instruments, electronic funds transfers, or similar  
2 methods of payment.

3 (b) A deposit account information service company,  
4 which issues reports regarding account closures due to fraud,  
5 substantial overdrafts, automatic teller machine abuse, or  
6 similar negative information regarding a consumer to inquiring  
7 banks or other financial institutions for use only in  
8 reviewing a consumer request for a deposit account at the  
9 inquiring bank or financial institution, as defined in s.  
10 655.005(1)(g) or (h), or in federal law.

11 (c) A consumer reporting agency that acts only as a  
12 reseller of credit information by assembling and merging  
13 information contained in the database of another consumer  
14 reporting agency or multiple consumer reporting agencies and  
15 does not maintain a permanent database of credit information  
16 from which new consumer reports are produced. However, a  
17 consumer reporting agency shall honor any security freeze  
18 placed, removed, or temporary lifted on a consumer report by  
19 another consumer reporting agency.

20 (d) A fraud prevention services company issuing  
21 reports to prevent or investigate fraud.

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

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

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1       (b) Any individual who obtains a consumer report under  
2 false pretenses or knowingly without a permissible purpose is  
3 liable to the consumer for actual damages sustained by the  
4 consumer as a result of the failure or damages of not less  
5 than \$100 and not more than \$1,000, whichever is greater. Any  
6 person who obtains a consumer report from a consumer reporting  
7 agency under false pretenses or knowingly without a  
8 permissible purpose is liable to the consumer reporting agency  
9 for actual damages sustained by the consumer reporting agency  
10 or \$1,000, whichever is greater.

11       (c) Punitive damages may be assessed for willful  
12 violations of this section.

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

18       (e) Upon a finding by the court that an unsuccessful  
19 pleading, motion, or other paper filed in connection with an  
20 action under this subsection was filed in bad faith or for  
21 purposes of harassment, the court shall award to the  
22 prevailing party attorney's fees that are reasonable in  
23 relation to the work performed in responding to the pleading,  
24 motion, or other paper.

25       (17) Any written disclosure by a consumer reporting  
26 agency, pursuant to 15 U.S.C. s. 1681g, to any consumer  
27 residing in this state shall include a written summary of all  
28 rights the consumer has under this section, and, in the case  
29 of a consumer reporting agency that compiles and maintains  
30 consumer reports on a nationwide basis, a toll-free telephone  
31 number that the consumer can use to communicate with the

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1 consumer reporting agency. The information set forth in  
 2 paragraph (b) of the written summary of rights must be in at  
 3 least 12-point boldface type. The written summary of rights  
 4 required under this section is sufficient if it is  
 5 substantially in the following form:

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

9 And the title is amended as follows:

10            On page 1, lines 17 through 23, delete those lines

11

12 and insert:

13            authorizing a consumer reporting agency to  
 14            charge a fee to place, remove, or temporarily  
 15            lift a security freeze; prohibiting a consumer  
 16            reporting agency from charging a fee to  
 17            specified persons; authorizing the charging of  
 18            a fee for the reissuance of a personal  
 19            identification number;

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