

By Senator Peadar

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See CS/HB 37

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

1 procedures and consumer rights associated with
2 a security freeze; providing an effective date.

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

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

8 501.005 Consumer credit report security freeze.--

9 (1) A consumer may place a security freeze on his or
10 her consumer credit report by making a request in writing by
11 certified mail to a consumer credit reporting agency. For
12 purposes of this section, "consumer credit report security
13 freeze" or "security freeze" means a notice placed in a
14 consumer's credit report that prohibits a consumer credit
15 reporting agency from releasing the consumer's credit report
16 or any information contained within the credit report to a
17 third party without the express authorization of the consumer.
18 This section does not prevent a consumer credit reporting
19 agency from advising a third party that a security freeze is
20 in effect with respect to the consumer's credit report.

21 (2) A consumer credit reporting agency shall place a
22 security freeze on a consumer's credit report no later than 5
23 business days after receiving a request from the consumer.

24 (3) The consumer credit reporting agency shall send a
25 written confirmation of the security freeze to the consumer
26 within 5 business days after instituting the security freeze
27 and shall provide the consumer with a unique personal
28 identification number or password to be used by the consumer
29 when providing authorization for the limited release of his or
30 her credit report for a designated period of time during the
31 security freeze as provided in subsection (4).

1 (4) A consumer may allow his or her credit report to
2 be accessed for a designated period of time while a security
3 freeze is in effect by contacting the consumer credit
4 reporting agency and requesting that the freeze be temporarily
5 lifted. The consumer must provide the following information to
6 the consumer credit reporting agency as part of the request:

7 (a) Proper identification as determined by the
8 consumer credit reporting agency.

9 (b) The unique personal identification number or
10 password provided by the consumer credit reporting agency
11 pursuant to subsection (3).

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

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

19 (6) A consumer credit reporting agency shall use
20 telephonic communication or any form of secure electronic
21 media to receive and process a request from a consumer
22 pursuant to subsection (4) with the goal of processing a
23 request within 15 minutes after receipt of such request.

24 (7) A consumer credit reporting agency shall
25 temporarily lift or remove a security freeze placed on a
26 consumer's credit report only in the following instances:

27 (a) Upon consumer request, pursuant to subsection (4)
28 or subsection (10).

29 (b) If the consumer's credit report was frozen due to
30 a material misrepresentation of fact by the consumer. If a
31 consumer credit reporting agency intends to remove a security

1 freeze on a consumer's credit report pursuant to this
2 paragraph, the consumer credit reporting agency shall notify
3 the consumer in writing prior to removing the security freeze.

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

10 (9) If a consumer requests a security freeze, the
11 consumer credit reporting agency shall disclose to the
12 consumer all information relevant to the process of
13 instituting, temporarily lifting, and removing a security
14 freeze and shall include the disclosure required by subsection
15 (16).

16 (10) A security freeze shall remain in place until the
17 consumer requests that it be removed. A consumer credit
18 reporting agency shall remove a security freeze within 3
19 business days after receiving a request for removal from the
20 consumer, who, upon making the request for removal, must
21 provide the following:

22 (a) Proper identification as determined by the
23 consumer credit reporting agency.

24 (b) The unique personal identification number or
25 password provided by the credit reporting agency pursuant to
26 subsection (3).

27 (11) The provisions of this section do not apply to
28 the use of a consumer credit report by the following persons
29 or for the following reasons:

30 (a) A person to whom the consumer owes a financial
31 obligation or a subsidiary, affiliate, or agent of the person,

1 or an assignee of a financial obligation owed by the consumer
2 to the person, or a prospective assignee of a financial
3 obligation owed by the consumer to the person in conjunction
4 with the proposed purchase of the financial obligation, with
5 which the consumer has or had prior to assignment an account
6 or contract, including a demand deposit account, or to whom
7 the consumer issued a negotiable instrument, for the purposes
8 of reviewing the account or collecting the financial
9 obligation owed for the account, contract, or negotiable
10 instrument. For purposes of this paragraph, "reviewing the
11 account" includes activities related to account maintenance,
12 monitoring, credit line increases, and account upgrades and
13 enhancements.

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

18 (c) A state agency acting within its lawful
19 investigative or regulatory authority.

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

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

24 (f) Any person for the purpose of providing a consumer
25 with a copy of the consumer's credit report upon the
26 consumer's request.

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

28 (h) The use of credit information for the purposes of
29 prescreening as provided for by the federal Fair Credit
30 Reporting Act.

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1 (12) A consumer credit reporting agency shall not
2 charge a consumer a fee to place a security freeze on the
3 consumer's credit report. A consumer credit reporting agency
4 may charge a reasonable fee, not to exceed \$5, to a consumer
5 who elects to remove or temporarily lift a security freeze on
6 his or her consumer credit report. A consumer may be charged a
7 reasonable fee, not to exceed \$5, if the consumer fails to
8 retain the original personal identification number or password
9 provided by the consumer credit reporting agency, and the
10 agency must reissue the personal identification number or
11 password or provide a new personal identification number or
12 password to the consumer.

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

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

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

30 (14) The provisions of this section do not apply to
31 the following entities:

1 (a) A check services company, which issues
2 authorizations for the purpose of approving or processing
3 negotiable instruments, electronic funds transfers, or similar
4 methods of payment.

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

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

22 (15) In addition to any other penalties or remedies
23 provided under law, a person who is aggrieved by a knowing or
24 willful violation of the provisions of this section may bring
25 a civil action in any court of competent jurisdiction against
26 any person or entity, including a consumer credit reporting
27 agency, for recovery of actual and consequential damages,
28 court costs, and attorney's fees.

29 (16) Any written disclosure by a consumer credit
30 reporting agency to any consumer pursuant to this section
31 shall include a written summary of all rights the consumer has

1 under this section, and, in the case of a consumer credit
2 reporting agency which compiles and maintains consumer credit
3 reports on a nationwide basis, a toll-free telephone number
4 which the consumer can use to communicate with the consumer
5 credit reporting agency. The written summary of rights
6 required under this section is sufficient if it is in
7 substantially the following form:

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9 You have a right to place a "security freeze" on your
10 credit report, which will prohibit a consumer credit reporting
11 agency from releasing any information in your credit report
12 without your express authorization. A security freeze must be
13 requested in writing by certified mail to a consumer credit
14 reporting agency. The security freeze is designed to prevent
15 credit, loans, and services from being approved in your name
16 without your consent. However, you should be aware that using
17 a security freeze to control access to the personal and
18 financial information in your credit report may delay,
19 interfere with, or prohibit the timely approval of any
20 subsequent request or application you make regarding a new
21 loan, credit, mortgage, insurance, government services or
22 payments, rental housing, employment, investment, license,
23 cellular phone, utilities, digital signature, Internet credit
24 card transaction, or other services, including an extension of
25 credit at point of sale. When you place a security freeze on
26 your credit report, you will be provided a personal
27 identification number or password to use if you choose to
28 remove the freeze on your credit report or authorize the
29 release of your credit report for a designated period of time
30 after the security freeze is in place. To provide that
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1 authorization, you must contact the consumer credit reporting
2 agency and provide all of the following:

- 3 (1) The personal identification number or password.
4 (2) Proper identification to verify your identity.
5 (3) Information specifying the period of time for
6 which the report shall be made available.

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8 A consumer credit reporting agency must authorize the
9 release of your credit report no later than 3 business days
10 after receiving the above information.

11 A security freeze does not apply to a person or entity,
12 or its affiliates, or collection agencies acting on behalf of
13 the person or entity, with which you have an existing account,
14 that requests information in your credit report for the
15 purposes of reviewing or collecting the account. Reviewing the
16 account includes activities related to account maintenance,
17 monitoring, credit line increases, and account upgrades and
18 enhancements.

19 You have the right to bring a civil action against
20 anyone, including a consumer credit reporting agency, who
21 fails to comply with the provisions of s. 501.005, Florida
22 Statutes, which governs the placing of a consumer credit
23 report security freeze on your consumer credit report. This
24 includes the right to bring a civil action against any person
25 for recovery of your actual and consequential damages, court
26 costs, and attorney's fees caused by a knowing or willful
27 violation of the law.

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