



1 by a consumer reporting agency of procedures  
2 and consumer rights associated with a security  
3 freeze; creating s. 655.851, F.S.; providing  
4 that credit balances that result from the  
5 performance of or participation in  
6 check-clearing functions are not subject to  
7 certain reporting requirements; providing an  
8 effective date.

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

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

14 501.005 Consumer report security freeze.--

15 (1) For purposes of this section, a "security freeze"  
16 means a notice placed in a consumer report which prohibits a  
17 consumer reporting agency, as defined in 15 U.S.C. s.  
18 1681a(f), from releasing the consumer report, credit score, or  
19 any information contained within the consumer report to a  
20 third party without the express authorization of the consumer.  
21 This section does not prevent a consumer reporting agency from  
22 advising a third party that a security freeze is in effect  
23 with respect to the consumer report. For purposes of this  
24 part, the term "consumer report" has the same meaning set  
25 forth in 15 U.S.C. s. 1681a(d).

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

28 1. Making a request in writing by certified mail to a  
29 consumer reporting agency;

30 2. Including information that properly identifies the  
31 consumer; and

1           3. Paying a fee authorized under this section.

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

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

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

19           (a) Proper identification as determined by the  
20 consumer reporting agency.

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

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

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

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

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

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

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

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

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

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

30           (11) A security freeze shall remain in place until the  
31 consumer requests that it be removed. A consumer reporting

1 agency shall remove a security freeze within 3 business days  
2 after receiving a request for removal from the consumer, who,  
3 upon making the request for removal, must provide the  
4 following:

5 (a) Proper identification as determined by the  
6 consumer reporting agency.

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

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

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

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

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

3 (c) A state agency acting within its lawful  
4 investigative or regulatory authority.

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

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

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

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

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

16 (i) Any insurance company for use in setting or  
17 adjusting a rate, adjusting a claim, or underwriting for  
18 insurance purposes.

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

1 identification number or password or provide a new personal  
2 identification number or password to the consumer.

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

8 (a) Name.

9 (b) Address.

10 (c) Date of birth.

11 (d) Social security number.

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

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

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

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

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. 1681g, 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 12-point boldface type. The written summary of rights  
27 required under this section is sufficient if it is  
28 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

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.

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1           (e) A security freeze does not apply to a person or  
2 entity, or its affiliates, or collection agencies acting on  
3 behalf of the person or entity, with which you have an  
4 existing account, which requests information in your consumer  
5 report for the purposes of reviewing or collecting the  
6 account. Reviewing the account includes activities related to  
7 account maintenance, monitoring, credit line increases, and  
8 account upgrades and enhancements.

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

14           Section 2. Section 655.851, Florida Statutes, is  
15 created to read:

16           655.851 Unclaimed credit balances.--Credit balances of  
17 suspense accounts and credit balances only and exactly held by  
18 a financial institution, credit union, or participant as  
19 defined by 12 U.S.C. s. 4001(19), which result from the  
20 performance of or participation in check-clearing functions,  
21 whether pursuant to a contractual relationship between  
22 financial institutions, credit unions, or participants,  
23 through a clearinghouse as defined by s. 674.104, or through a  
24 clearinghouse association as defined by 12 U.S.C. s. 4001(8),  
25 are not subject to s. 717.117. This section is intended to be  
26 remedial in nature, is intended to clarify existing law, and  
27 shall apply to credit balances held before, on, or after July  
28 1, 2006.

29           Section 3. This act shall take effect July 1, 2006.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 656

The committee substitute makes the following changes:

1. No later than July 1, 2007, a consumer reporting agency doing business in Florida to select and develop a secure electronic contact, which may include the use of telephone, fax, the Internet, or other secure methods, to receive and process requests from consumers to temporarily lift a freeze on a consumer report.
2. The bill expands the circumstance in which an insurance company may obtain information that would otherwise be unavailable due to a credit freeze on a consumer's credit report to include setting or adjusting rates and adjusting claims. The original bill limited an insurance company's access to such information for underwriting purposes only.
3. The font of the required written disclosure that consumer reporting agencies must provide to consumers regarding credit freezes is reduced from at least 14-point to 12-point boldface.
4. The bill also provides that credit balances held by financial institutions that are the result of check clearing functions are not subject to the unclaimed property reporting requirements under s. 717.117, F.S. This provision would apply retroactively to credit balances held on or after July 1, 2006.
5. The bill provides technical, clarifying changes.