

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Regulatory Affairs
2 Committee
3 Representative Fitzenhagen offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:
Section 1. Section 501.0051, Florida Statutes, is created
to read:

501.0051 Protected consumer security freeze.—

(1) As used in this section, the term:

(a) "Consumer reporting agency" has the same meaning as
provided in 15 U.S.C. s. 1681a(f).

(b) "Consumer report" has the same meaning as provided in
15 U.S.C. s. 1681a(d).

(c) "Protected consumer" means a person younger than 16
years of age at the time a security freeze request is made or a
person represented by a guardian or other advocate pursuant to
chapter 39, chapter 393, chapter 744, or chapter 914.

(d) "Record" means a compilation of information that:

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20 1. Identifies a protected consumer;

21 2. Is created by a consumer reporting agency exclusively
22 for the purpose of complying with this section; and

23 3. May not be created or used to consider the protected
24 consumer's credit worthiness, credit standing, credit capacity,
25 character, general reputation, personal characteristics, or
26 eligibility for other financial services.

27 (e) "Representative" means the custodial parent or legal
28 guardian of a protected consumer, including a guardian appointed
29 pursuant to s. 914.17.

30 (f) "Security freeze" means:

31 1. A notice that is placed on the protected consumer's
32 consumer report that prohibits a consumer reporting agency from
33 releasing the consumer report, credit score, or any information
34 contained within the consumer report to a third party without
35 the express authorization of the representative; or

36 2. A notice that is placed on the protected consumer's
37 record that prohibits the consumer reporting agency from
38 releasing the protected consumer's record except as provided in
39 this section, if a consumer reporting agency does not have a
40 file pertaining to the protected consumer.

41 (g) "Sufficient proof of authority" means documentation
42 that shows that a representative has authority to act on behalf
43 of a protected consumer. Sufficient proof of authority includes,
44 but is not limited to, a court order, valid power of attorney,
45 or a written notarized statement signed by a representative that
46 expressly describes the authority of the representative to act
47 on behalf of the protected consumer.

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48 (h) "Sufficient proof of identification" means
49 documentation that identifies a protected consumer or a
50 representative of a protected consumer. Sufficient proof of
51 identification includes, but is not limited to, a copy of a
52 social security card, a certified or official copy of a birth
53 certificate, a copy of a valid driver license, or a government-
54 issued photo identification.

55 (2) A representative may place a security freeze by:

56 (a) Submitting a request to a consumer reporting agency in
57 the manner prescribed by that agency;

58 (b) Providing the agency with sufficient proof of
59 authority and sufficient proof of identification; and

60 (c) Paying the agency a fee as authorized under this
61 section.

62 (3) If a consumer reporting agency does not have a
63 consumer report pertaining to a protected consumer when the
64 consumer reporting agency receives a request for a security
65 freeze under subsection (2), the consumer reporting agency shall
66 create a record for the protected consumer and place a security
67 freeze on the record.

68 (4) A consumer reporting agency shall place a security
69 freeze within 30 days after confirming the authenticity of a
70 security freeze request made in accordance with this section.

71 (5) The consumer reporting agency shall send a written
72 confirmation of the security freeze to the representative within
73 10 business days after instituting the security freeze and shall
74 provide the representative with instructions for removing the
75 security freeze and a unique personal identifier to be used by

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76 the representative when providing authorization for removal of a
77 security freeze.

78 (6) A consumer reporting agency may not state or imply to
79 any person that a security freeze reflects a negative credit
80 score, negative credit history, or a negative credit rating.

81 (7) A consumer reporting agency shall remove a security
82 freeze only in the following instances:

83 (a) Upon request of a representative pursuant to paragraph
84 (8) (a).

85 (b) Upon request of a protected consumer pursuant to
86 paragraph (8) (b).

87 (c) If the security freeze was instituted due to a
88 material misrepresentation of fact by a representative. If a
89 consumer reporting agency intends to remove a security freeze
90 pursuant to this paragraph, the consumer reporting agency shall
91 notify the representative in writing before removing the
92 security freeze.

93 (8) A security freeze placed in accordance with this
94 section shall remain in place until a representative or
95 protected consumer requests that it be removed. A consumer
96 reporting agency shall remove a security freeze within 30 days
97 after receiving a request for removal from a protected consumer
98 or representative.

99 (a) A representative submitting a request for removal must
100 provide the following:

101 1. Sufficient proof of identification and sufficient proof
102 of authority as determined by the consumer reporting agency.

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103 2. The unique personal identifier provided by the consumer
104 reporting agency pursuant to subsection (5).

105 3. Payment of a fee as authorized by this section.

106 (b) A protected consumer submitting a request for removal
107 must provide the following:

108 1. Sufficient proof of identification as determined by the
109 consumer reporting agency.

110 2. Documentation that the sufficient proof of authority
111 for the protected consumer's representative to act on behalf of
112 the protected consumer is no longer valid.

113 (9) This section does not apply to use of a consumer
114 record or report by the following persons or for the following
115 reasons:

116 (a) A state agency acting within its lawful investigative
117 or regulatory authority.

118 (b) A state or local law enforcement agency investigating
119 a crime or conducting a criminal background check.

120 (c) Any person administering a credit file monitoring
121 subscription service to which the protected consumer has
122 subscribed.

123 (d) Any person for the purpose of providing the protected
124 consumer's consumer report upon the representative's request.

125 (e) Any person with a court order lawfully entered.

126 (f) Any insurance company for use in setting or adjusting
127 a rate, adjusting a claim, or underwriting for insurance
128 purposes.

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129 (g) A consumer reporting agency's database or file which
130 consists entirely of information concerning, and is used
131 exclusively for, one or more of the following:

132 1. Criminal record information.

133 2. Personal loss history information.

134 3. Fraud prevention or detection.

135 4. Tenant screening.

136 5. Employment screening.

137 6. Personal insurance policy information.

138 7. Noncredit information used for insurance purposes.

139 (h) A check services company that issues authorizations
140 for the purpose of approving or processing negotiable
141 instruments, electronic funds transfers, or similar methods of
142 payment.

143 (i) A deposit account information service company that
144 issues reports regarding account closures due to fraud,
145 substantial overdrafts, automatic teller machine abuse, or
146 similar negative information regarding a protected consumer to
147 an inquiring financial institution, as defined in s. 655.005 or
148 in federal law, for use only in reviewing a representative's
149 request for a deposit account for the protected consumer at the
150 inquiring financial institution.

151 (j) A consumer reporting agency that acts only as a
152 reseller of credit information by assembling and merging
153 information contained in the database of another consumer
154 reporting agency or multiple consumer reporting agencies and
155 does not maintain a permanent database of credit information
156 from which new consumer reports are produced. However, a

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157 consumer reporting agency shall honor any security freeze placed
158 or removed by another consumer reporting agency.

159 (k) A fraud prevention services company issuing reports to
160 prevent or investigate fraud.

161 (10) (a) A consumer reporting agency may charge a
162 reasonable fee, not to exceed \$10, to a representative who
163 elects to place or remove a security freeze.

164 (b) A consumer reporting agency may charge a reasonable
165 fee, not to exceed \$10, if the representative fails to retain
166 the original personal identifier provided by the consumer
167 reporting agency and the agency must reissue the personal
168 identifier or provide a new personal identifier to the
169 representative.

170 (c) A consumer reporting agency may not charge any fee
171 under this section to a representative of a protected consumer
172 who is a victim of identity theft if the representative submits,
173 at the time the security freeze is requested, a copy of a valid
174 investigative report or incident report or complaint with a law
175 enforcement agency about the unlawful use of the protected
176 consumer's identifying information by another person.

177 (11) If a security freeze is in effect, a consumer
178 reporting agency may not change any of the following official
179 information without sending a written confirmation of the change
180 to the representative within 30 days after the change is posted:

181 (a) The protected consumer's name.

182 (b) The protected consumer's address.

183 (c) The protected consumer's date of birth.

184 (d) The protected consumer's social security number.

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186 Written confirmation is not required for technical corrections
187 of a protected consumer's official information, including name
188 and street abbreviations, complete spellings, or transposition
189 of numbers or letters. In the case of an address change, the
190 written confirmation must be sent to both the new address and
191 the former address.

192 (12) If a consumer reporting agency violates a security
193 freeze placed in accordance with this section by releasing
194 information subject to a security freeze without proper
195 authorization, the consumer reporting agency shall, within 5
196 business days after discovering or being notified of the release
197 of information, notify the representative of the protected
198 consumer in writing. The notice shall state the specific
199 information released, and provide the name, address, and other
200 contact information of the recipient of the information.

201 (13) A consumer reporting agency that willfully fails to
202 comply with any requirement imposed under this section with
203 respect to any representative or protected consumer is subject
204 to an administrative fine in the amount of \$500 issued pursuant
205 to the administrative procedures established in chapter 120 by
206 the Department of Agriculture and Consumer Services.

207 (14) A person who is aggrieved by a violation of this
208 section may bring a civil action as follows:

209 (a) A person who obtains a record or report under false
210 pretenses, or who knowingly obtains a record or report without a
211 permissible purpose, is liable to the representative and

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212 protected consumer for actual damages sustained by the protected
213 consumer or \$1,000, whichever is greater.

214 (b) A person who obtains a record or report from a
215 consumer reporting agency under false pretenses, or who
216 knowingly obtains a record or report without a permissible
217 purpose, is liable to the consumer reporting agency for actual
218 damages sustained by the consumer reporting agency or \$1,000,
219 whichever is greater.

220 (15) A written disclosure by a consumer reporting agency,
221 pursuant to 15 U.S.C. s. 1681g, to a representative and
222 protected consumer residing in this state shall include a
223 written summary of all rights that the representative and
224 protected consumer have under this section, and, in the case of
225 a consumer reporting agency which compiles and maintains records
226 on a nationwide basis, a toll-free telephone number that the
227 representative can use to communicate with the consumer
228 reporting agency. The information provided in paragraph (b) of
229 the written summary of rights must be in at least 12-point
230 boldface type. The written summary of rights required under this
231 section is sufficient if it is substantially in the following
232 form:

233 (a) If you are the custodial parent or legal guardian of a
234 minor younger than 16 years of age or a guardian or advocate of
235 an incapacitated, disabled, or protected person under chapter
236 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,
237 you have a right to place a security freeze on the consumer
238 report of the person you are legally authorized to care for. If
239 no consumer report exists, you have a right to request a record

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240 to be created and a security freeze to be placed on the record.

241 A record with a security freeze is intended to prevent the
242 opening of credit accounts until the security freeze is removed.

243 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
244 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE
245 CONSUMER RECORD OR REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT
246 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
247 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
248 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
249 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
250 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
251 EXTENSION OF CREDIT AT POINT OF SALE.

252 (c) To remove the security freeze on the protected
253 consumer's record or report, you must contact the consumer
254 reporting agency and provide all of the following:

255 1. The personal identification required by the consumer
256 reporting agency.

257 2. Sufficient proof of authority over the protected
258 consumer.

259 3. Payment of a fee authorized by this section.

260 (d) A consumer reporting agency must, within 30 days after
261 receiving the above information, authorize the removal of the
262 security freeze.

263 (e) A security freeze does not apply to a person or
264 entity, or its affiliates, or collection agencies acting on
265 behalf of the person or entity, with which the protected
266 consumer has an existing account, that requests information in
267 the protected consumer's consumer report for the purposes of

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268 reviewing or collecting the account. Reviewing the account
269 includes activities related to account maintenance, monitoring,
270 credit line increases, and account upgrades and enhancements.

271 (f) You have the right to bring a civil action as
272 authorized by s. 501.0051, Florida Statutes, which governs the
273 security of protected consumer information.

274 Section 2. This act shall take effect September 1, 2013.
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279 **T I T L E A M E N D M E N T**

280 Remove everything before the enacting clause and insert:

281 A bill to be entitled

282 An act relating to security of protected consumer information;
283 creating s. 501.0051, F.S.; providing definitions; authorizing
284 the representative of a protected consumer to place a security
285 freeze; requiring a consumer reporting agency to establish a
286 record if the protected consumer does not have an existing
287 consumer report; requiring a consumer reporting agency to
288 provide written confirmation of a security freeze within a
289 specified period; prohibiting a consumer reporting agency from
290 stating or implying that a security freeze reflects a negative
291 credit history or rating; requiring a consumer reporting agency
292 to remove a security freeze under specified conditions;
293 providing for applicability; authorizing a consumer reporting
294 agency to charge a fee for placing or removing a security freeze
295 and for reissuing personal identification information;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 493 (2013)

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296 prohibiting a fee under certain circumstances; requiring written
297 notification to change specified information in a protected
298 consumer's record; providing exemptions; requiring a consumer
299 reporting agency to notify a representative and provide
300 specified information if the consumer reporting agency violates
301 a security freeze; providing penalties and civil remedies;
302 providing written disclosure requirements for consumer reporting
303 agencies relating to protected consumer security freezes;
304 providing an effective date.