

1 A bill to be entitled
2 An act relating to security of protected consumer
3 information; creating s. 501.0051, F.S.; providing
4 definitions; authorizing the representative of a
5 protected consumer to place a security freeze;
6 requiring a consumer reporting agency to establish a
7 record if the protected consumer does not have an
8 existing consumer report; requiring a consumer
9 reporting agency to provide written confirmation of a
10 security freeze within a specified period; prohibiting
11 a consumer reporting agency from stating or implying
12 that a security freeze reflects a negative credit
13 history or rating; requiring a consumer reporting
14 agency to remove a security freeze under specified
15 conditions; providing for applicability; authorizing a
16 consumer reporting agency to charge a fee for placing
17 or removing a security freeze and for reissuing
18 personal identification information; prohibiting a fee
19 under certain circumstances; requiring written
20 notification to change specified information in a
21 protected consumer's record; providing exemptions;
22 requiring a consumer reporting agency to notify a
23 representative and provide specified information if
24 the consumer reporting agency violates a security
25 freeze; providing penalties and civil remedies;
26 providing written disclosure requirements for consumer
27 reporting agencies relating to protected consumer
28 security freezes; providing an effective date.

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

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:

1. Identifies a protected consumer;

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

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

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

(f) "Security freeze" means:

1. A notice that is placed on the protected consumer's

57 | consumer report that prohibits a consumer reporting agency from
58 | releasing the consumer report, credit score, or any information
59 | contained within the consumer report to a third party without
60 | the express authorization of the representative; or

61 | 2. A notice that is placed on the protected consumer's
62 | record that prohibits the consumer reporting agency from
63 | releasing the protected consumer's record except as provided in
64 | this section, if a consumer reporting agency does not have a
65 | file pertaining to the protected consumer.

66 | (g) "Sufficient proof of authority" means documentation
67 | that shows that a representative has authority to act on behalf
68 | of a protected consumer. Sufficient proof of authority includes,
69 | but is not limited to, a court order, valid power of attorney,
70 | or a written notarized statement signed by a representative that
71 | expressly describes the authority of the representative to act
72 | on behalf of the protected consumer.

73 | (h) "Sufficient proof of identification" means
74 | documentation that identifies a protected consumer or a
75 | representative of a protected consumer. Sufficient proof of
76 | identification includes, but is not limited to, a copy of a
77 | social security card, a certified or official copy of a birth
78 | certificate, a copy of a valid driver license, or a government-
79 | issued photo identification.

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

81 | (a) Submitting a request to a consumer reporting agency in
82 | the manner prescribed by that agency;

83 | (b) Providing the agency with sufficient proof of
84 | authority and sufficient proof of identification; and

85 (c) Paying the agency a fee as authorized under this
86 section.

87 (3) If a consumer reporting agency does not have a
88 consumer report pertaining to a protected consumer when the
89 consumer reporting agency receives a request for a security
90 freeze under subsection (2), the consumer reporting agency shall
91 create a record for the protected consumer and place a security
92 freeze on the record.

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

96 (5) The consumer reporting agency shall send a written
97 confirmation of the security freeze to the representative within
98 10 business days after instituting the security freeze and shall
99 provide the representative with instructions for removing the
100 security freeze and a unique personal identifier to be used by
101 the representative when providing authorization for removal of a
102 security freeze.

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

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

108 (a) Upon request of a representative pursuant to paragraph

109 (8) (a).

110 (b) Upon request of a protected consumer pursuant to
111 paragraph (8) (b).

112 (c) If the security freeze was instituted due to a

113 material misrepresentation of fact by a representative. If a
114 consumer reporting agency intends to remove a security freeze
115 pursuant to this paragraph, the consumer reporting agency shall
116 notify the representative in writing before removing the
117 security freeze.

118 (8) A security freeze placed in accordance with this
119 section shall remain in place until a representative or
120 protected consumer requests that it be removed. A consumer
121 reporting agency shall remove a security freeze within 30 days
122 after receiving a request for removal from a protected consumer
123 or representative.

124 (a) A representative submitting a request for removal must
125 provide the following:

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

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

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

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

133 1. Sufficient proof of identification as determined by the
134 consumer reporting agency.

135 2. Documentation that the sufficient proof of authority
136 for the protected consumer's representative to act on behalf of
137 the protected consumer is no longer valid.

138 (9) This section does not apply to use of a consumer
139 record or report by the following persons or for the following
140 reasons:

141 (a) A state agency acting within its lawful investigative
142 or regulatory authority.

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

145 (c) Any person administering a credit file monitoring
146 subscription service to which the protected consumer has
147 subscribed.

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

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

151 (f) Any insurance company for use in setting or adjusting
152 a rate, adjusting a claim, or underwriting for insurance
153 purposes.

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

157 1. Criminal record information.

158 2. Personal loss history information.

159 3. Fraud prevention or detection.

160 4. Tenant screening.

161 5. Employment screening.

162 6. Personal insurance policy information.

163 7. Noncredit information used for insurance purposes.

164 (h) A check services company that issues authorizations
165 for the purpose of approving or processing negotiable
166 instruments, electronic funds transfers, or similar methods of
167 payment.

168 (i) A deposit account information service company that

169 issues reports regarding account closures due to fraud,
170 substantial overdrafts, automatic teller machine abuse, or
171 similar negative information regarding a protected consumer to
172 an inquiring financial institution, as defined in s. 655.005 or
173 in federal law, for use only in reviewing a representative's
174 request for a deposit account for the protected consumer at the
175 inquiring financial institution.

176 (j) A consumer reporting agency that acts only as a
177 reseller of credit information by assembling and merging
178 information contained in the database of another consumer
179 reporting agency or multiple consumer reporting agencies and
180 does not maintain a permanent database of credit information
181 from which new consumer reports are produced. However, a
182 consumer reporting agency shall honor any security freeze placed
183 or removed by another consumer reporting agency.

184 (k) A fraud prevention services company issuing reports to
185 prevent or investigate fraud.

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

189 (b) A consumer reporting agency may charge a reasonable
190 fee, not to exceed \$10, if the representative fails to retain
191 the original personal identifier provided by the consumer
192 reporting agency and the agency must reissue the personal
193 identifier or provide a new personal identifier to the
194 representative.

195 (c) A consumer reporting agency may not charge any fee
196 under this section to a representative of a protected consumer

197 who is a victim of identity theft if the representative submits,
198 at the time the security freeze is requested, a copy of a valid
199 investigative report or incident report or complaint with a law
200 enforcement agency about the unlawful use of the protected
201 consumer's identifying information by another person.

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

206 (a) The protected consumer's name.

207 (b) The protected consumer's address.

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

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

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211 Written confirmation is not required for technical corrections
212 of a protected consumer's official information, including name
213 and street abbreviations, complete spellings, or transposition
214 of numbers or letters. In the case of an address change, the
215 written confirmation must be sent to both the new address and
216 the former address.

217 (12) If a consumer reporting agency violates a security
218 freeze placed in accordance with this section by releasing
219 information subject to a security freeze without proper
220 authorization, the consumer reporting agency shall, within 5
221 business days after discovering or being notified of the release
222 of information, notify the representative of the protected
223 consumer in writing. The notice shall state the specific
224 information released, and provide the name, address, and other

225 contact information of the recipient of the information.

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

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

234 (a) A person who obtains a record or report under false
235 pretenses, or who knowingly obtains a record or report without a
236 permissible purpose, is liable to the representative and
237 protected consumer for actual damages sustained by the protected
238 consumer or \$1,000, whichever is greater.

239 (b) A person who obtains a record or report from a
240 consumer reporting agency under false pretenses, or who
241 knowingly obtains a record or report without a permissible
242 purpose, is liable to the consumer reporting agency for actual
243 damages sustained by the consumer reporting agency or \$1,000,
244 whichever is greater.

245 (15) A written disclosure by a consumer reporting agency,
246 pursuant to 15 U.S.C. s. 1681g, to a representative and
247 protected consumer residing in this state shall include a
248 written summary of all rights that the representative and
249 protected consumer have under this section, and, in the case of
250 a consumer reporting agency which compiles and maintains records
251 on a nationwide basis, a toll-free telephone number that the
252 representative can use to communicate with the consumer

253 reporting agency. The information provided in paragraph (b) of
 254 the written summary of rights must be in at least 12-point
 255 boldface type. The written summary of rights required under this
 256 section is sufficient if it is substantially in the following
 257 form:

258 (a) If you are the custodial parent or legal guardian of a
 259 minor younger than 16 years of age or a guardian or advocate of
 260 an incapacitated, disabled, or protected person under chapter
 261 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,
 262 you have a right to place a security freeze on the consumer
 263 report of the person you are legally authorized to care for. If
 264 no consumer report exists, you have a right to request a record
 265 to be created and a security freeze to be placed on the record.
 266 A record with a security freeze is intended to prevent the
 267 opening of credit accounts until the security freeze is removed.

268 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
 269 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN THE
 270 CONSUMER RECORD OR REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT
 271 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
 272 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
 273 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
 274 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
 275 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
 276 EXTENSION OF CREDIT AT POINT OF SALE.

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

- 280 1. The personal identification required by the consumer

281 reporting agency.

282 2. Sufficient proof of authority over the protected
 283 consumer.

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

285 (d) A consumer reporting agency must, within 30 days after
 286 receiving the above information, authorize the removal of the
 287 security freeze.

288 (e) A security freeze does not apply to a person or
 289 entity, or its affiliates, or collection agencies acting on
 290 behalf of the person or entity, with which the protected
 291 consumer has an existing account, that requests information in
 292 the protected consumer's consumer report for the purposes of
 293 reviewing or collecting the account. Reviewing the account
 294 includes activities related to account maintenance, monitoring,
 295 credit line increases, and account upgrades and enhancements.

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

299 Section 2. This act shall take effect September 1, 2013.