



H.B. 624

126th General Assembly
(As Introduced)

Rep. J. Stewart

BILL SUMMARY

- Permits a consumer to request a "consumer reporting agency" to place a "security freeze" on the consumer's credit report.
- Creates general procedures for a security freeze request by a consumer to a consumer reporting agency, and for the actions of the consumer reporting agency in response to that request.
- Provides a procedure for a consumer to release a credit report subject to a security freeze to a specific person or to lift the security freeze for a limited period of time.
- Establishes a list of entities to whom a consumer reporting agency may release a consumer credit report on which a security freeze has been placed.
- Establishes the damages a consumer is entitled to when a consumer reporting agency negligently or willfully fails to comply with the requirements of this bill.

CONTENT AND OPERATION

Consumer's credit report security freeze

(R.C. 1349.52)

The bill permits a consumer to request that a consumer reporting agency place a "security freeze" on the consumer's credit report. "Security freeze" is defined in the bill as "a notice placed in a consumer's credit report that prohibits a consumer reporting agency from releasing the consumer's credit report or

information contained in the consumer's credit report without authorization from the consumer" (division (A)(2)).

The bill also outlines the procedures for initiating a security freeze and the actions required by the consumer reporting agency in response to the consumer's request as follows:

- The consumer reporting agency may not charge the consumer a fee for placing a security freeze on that consumer's credit report but may charge a fee not to exceed \$5 to remove a security freeze, to temporarily lift a security freeze, or to reissue a consumer a personal identification number (division I).
- A consumer who elects to place a security freeze on the consumer's credit report must do so by means of a written request to the consumer reporting agency via certified mail, or through a secure electronic mail connection, if an electronic mail connection is provided by the consumer reporting agency (division B).
- A consumer reporting agency must initiate the security freeze no later than five days after it receives a request, and must send the consumer written confirmation of the security freeze within five days (division C).
- The written confirmation sent by the consumer reporting agency must include a unique personal identification number or password, which cannot be the consumer's social security number (division C).
- A security freeze must remain in effect until no later than three days after the consumer requests that the freeze be lifted according to procedures outlined in the bill for the security freeze to be removed (division G).
- A consumer reporting agency must confirm in writing to the consumer, within 30 days, certain changes the agency makes to the consumer's credit report (division J).

Release from security freeze

A consumer may authorize the temporary release of his or her credit report to a specific party or for a specific period of time by contacting the consumer reporting agency by certified mail or secure electronic mail and providing proper identification, the consumer's personal identification number or password, and the proper information regarding the third party who is to receive the report or the time period involved (division D). A consumer reporting agency then must

release the credit report to the specified third party within three days after receiving the request (division E).

The bill requires a consumer reporting agency to develop procedures to receive and process consumers' requests to temporarily lift a freeze on a consumer's credit report. These procedures must involve the use of telephone, fax, the internet or other electronic media and permit the consumer reporting agency to process a consumer's request in an expedited manner, with the goal of processing the request within 15 minutes of that request (division E). If the consumer credit report was frozen due to a material misrepresentation of fact by the consumer, the consumer reporting agency may remove the freeze five days after notifying the consumer in writing of its intent to do so (division (E)(2)).

Entities to whom a credit report can be released

The bill establishes a list of entities to whom a consumer reporting agency may release a consumer credit report on which a security freeze has been placed. These are: (1) certain persons, or their subsidiaries, affiliates or agents, with whom the person has or has had an account or contract, or a prospective assignee of a financial obligation that the consumer owes to a person for the purposes of reviewing the account (so as to maintain, monitor, upgrade, or enhance the account or its credit line), (2) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person, when the consumer has requested the release of the security freeze for purposes of facilitating the extension of credit or other permissible use, (3) a person seeking to use the information contained in the consumer's credit report for the purpose of prescreening pursuant to the federal Fair Credit Reporting Act (see **COMMENT**), (4) any person administering a credit report monitoring subscription service to which the consumer has subscribed, (5) any person for the purpose of providing a consumer with a copy of the consumer's credit report upon the consumer's request, (6) any federal, state, or local governmental entity, agency or instrumentality that is acting within their authority, (7) a state or local law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena, and (8) a state or local child support enforcement agency.

Exemption for certain consumer reporting agencies

A consumer reporting agency that acts only as a reseller of credit information and does not maintain a permanent database of credit information from which new consumer reports are produced, is not subject directly to the requirements of the bill, but must honor any security freeze placed on a consumer report by another consumer reporting agency (division K). Also, the following entities are not required to place a security freeze in a consumer report: (1) a check services company or fraud prevention services company that issues reports

on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments, (2) a demand deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a demand deposit account at the inquiring bank or financial institution (division L).

Damages for failure to comply

Any person who is negligent in failing to comply with the requirements of this section is liable to the effected consumer for actual damages sustained by the consumer as a result of the failure, as well as the costs of the action together with reasonable attorney's fees. If a person willfully fails to comply with any requirement imposed by this bill, the actual damages may not be less than one hundred and not more than one thousand dollars, but in such case the person is also subject to any amount of punitive damages as the court may allow. If a court finds that an unsuccessful pleading, motion, or other paper filed in connection with an action was filed in bad faith or for purposes of harassment, the court must award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper (division M).

Written notice

The bill requires that a consumer reporting agency, when required by the federal "Fair Credit Reporting Act," to provide a summary of rights, or when receiving a request from a consumer for information about a security freeze, to provide a detailed written notice explaining the consumers rights with respect to a security freeze (division F).

Definition(s)

The bill defines a "consumer reporting agency" as "any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties. . . ."

COMMENT

The federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) regulates consumer reporting agencies.

HISTORY

ACTION

DATE

Introduced

06-29-06

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