
Detailed Fiscal Analysis

Overview of security freeze processes

The bill permits a consumer to request that a consumer reporting agency place a security freeze on the consumer's credit report. It creates general procedures for consumers making such requests, and specifies actions that a consumer reporting agency must take in response. The bill also outlines a procedure under which a credit report subject to a security freeze can be released or lifted, and lists the entities to whom a consumer reporting agency may release a consumer credit report on which a security freeze has been placed.

Not later than January 31, 2009, the bill requires consumer reporting agencies to have developed systems that allow them to process a consumer's request to temporarily remove the security freeze within 15 minutes if the request is received electronically. The bill allows consumer reporting agencies to charge a fee of not more than \$10 to place and not more than \$5 to temporarily lift or remove a security freeze on the consumer's credit report. These fees would be waived if the requestor is a victim of identity theft who has submitted a valid police report to the consumer reporting agency.

Attorney General—new authority

After the January 31, 2009 deadline, the bill gives the Attorney General exclusive authority to bring an action if a consumer reporting agency fails to abide by the reporting system guidelines described above. It is uncertain how often the Attorney General would file such actions, but it is likely that it would be rare. If such an action were filed, there may be an increase in expenses from the Consumer Protection Enforcement Fund (Fund 631) and a gain in revenue to the General Reimbursement Fund (Fund 106), which would receive any amounts awarded by a court to the Attorney General for litigation expenses, fines, or other awards.

Consumer actions—court impacts

There are no specific criminal penalties associated with the bill. However, the bill makes any person, including a consumer reporting agency, who willfully fails to comply with any of the requirements in the bill liable to the consumer for any actual damages sustained by the consumer as a result of a failure, such as not placing the security freeze on the consumer's credit report in the time allotted in the bill. The bill limits damages to between \$100 and \$1,000, any punitive damages the court allows, and court costs with reasonable attorney's fees. The bill also makes persons negligent in failing to comply with the bill's requirements with respect to a consumer liable for actual damages, court costs, and reasonable attorney's fees. Finally, the bill makes anyone requesting security freezes or the modification of security freezes under false pretenses liable to the consumer reporting agency for the greater of actual damages sustained or \$1,000.

It is uncertain how many consumers would pursue the civil remedy provided by the bill, but it is assumed that it will be a fairly small number given the low rate of participation in states that have had security freezes available to consumers for several years now. However, it is possible that the bill may minimally increase adjudication costs for county and municipal courts over what they would be absent the bill's enactment. These additional costs may be offset through court cost and filing fee revenue.

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