
Detailed Fiscal Analysis

Overview

This bill permits a consumer to request a consumer reporting agency to place a "security freeze" on the consumer's credit report. It also creates general procedures for a security freeze request by a consumer to a consumer reporting agency, and specifies actions that a consumer reporting agency must take in response to that request. In addition, the bill 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 and 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. (For full details concerning these provisions, please see the LSC bill analysis.) Finally, not later than January 31, 2009, the bill requires consumer reporting agencies to have developed contact methods, such as by electronic means or telephone, that allow them to receive and process a consumer's request to temporarily remove the security freeze within 15 minutes of receipt.

Fiscal Effects

The bill allows a consumer reporting agency to charge a consumer 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. No fee applies if the consumer is a victim of identity theft who has submitted a valid police report to the consumer reporting agency.

Attorney General

The Attorney General has exclusive authority to bring an action if a consumer reporting agency, after January 31, 2009, fails to temporarily lift a security freeze within 15 minutes of a request from a consumer if there are no extenuating circumstances. Such extenuating circumstances might be that the consumer fails to meet certain identification or fee payment requirements, operational interruptions, governmental action, or natural disasters that prevent the consumer reporting agency from carrying out the request.

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

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 (i.e., the consumer reporting agency did not place the security freeze on the consumer's credit report as

requested by the consumer in the time allotted in the bill). Damages are limited to between \$100 and \$1,000, any punitive damages the court allows, and court costs with reasonable attorney's fees as determined by the court. 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, persons requesting security freezes or the modification of security freezes under false pretenses are liable to the consumer reporting agency for the greater of actual damages sustained or \$1,000.

It is uncertain how many consumers will actually take the time to pursue a civil remedy, but it is assumed that it will be a fairly small number on an annual basis 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 this 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.

The bill does not take effect until one year after the Governor files it in the office of the Secretary of State, making local government FY 2009 the first year in which there would be any fiscal effect.

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