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SUBSTITUTE HOUSE BILL 1755

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**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Hurst, O'Brien, Eddy, Kessler, Lovick, Rolfes, Williams, Dunshee, Kenney, Green, Hunter, Quall, VanDeWege, Simpson, Hasegawa and Ormsby)

READ FIRST TIME 02/22/07.

1            AN ACT Relating to consumer credit reports; amending RCW  
2 19.182.170; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 19.182.170 and 2005 c 342 s 1 are each amended to read  
5 as follows:

6            (1) A (~~victim of identity theft who has submitted a valid police~~  
7 ~~report to a consumer reporting agency~~) consumer, who is a resident of  
8 this state, may elect to place a security freeze on his or her credit  
9 report by making a request in writing by certified mail to a consumer  
10 reporting agency. "Security freeze" means a (~~notice placed in a~~  
11 ~~consumer's credit report, at the request of the consumer and subject to~~  
12 ~~certain exceptions, that prohibits the consumer reporting agency from~~  
13 ~~releasing the consumer's credit report or any information from it~~  
14 ~~without the express authorization of the consumer~~) prohibition,  
15 consistent with this section, on a consumer reporting agency's  
16 furnishing of a consumer's credit report to a third party intending to  
17 use the credit report to determine the consumer's eligibility for  
18 credit. If a security freeze is in place, information from a  
19 consumer's credit report may not be released to a third party without

1 prior express authorization from the consumer. This subsection does  
2 not prevent a consumer reporting agency from advising a third party  
3 that a security freeze is in effect with respect to the consumer's  
4 credit report.

5 (2) For purposes of this section and RCW 19.182.180 through  
6 19.182.210(~~(, a)~~):

7 (a) "Victim of identity theft" means(÷

8 ~~(a) A victim of identity theft as defined in RCW 9.35.020; or~~

9 ~~(b) A person who has been notified by an agency, person, or~~

10 ~~business that owns or licenses computerized data of a breach in a~~

11 ~~computerized data system which has resulted in the acquisition of that~~

12 ~~person's unencrypted personal information by an unauthorized person or~~

13 ~~entity)) a person who has a police report evidencing their claim to be~~

14 a victim of a violation of RCW 9.35.020 and which report will be

15 produced to a credit reporting agency, upon such credit reporting

16 agency's request.

17 (b) "Credit report" means a consumer report, as defined in 15

18 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in

19 establishing a consumer's eligibility for credit for personal, family,

20 or household purposes.

21 (c) "Normal business hours" means Sunday through Saturday, between

22 the hours of 6:00 a.m. and 9:30 p.m. Pacific Standard Time.

23 (3) A consumer reporting agency shall place a security freeze on a

24 consumer's credit report no later than five business days after

25 receiving a written request from the consumer.

26 (4) The consumer reporting agency shall send a written confirmation

27 of the security freeze to the consumer within ten business days and

28 shall provide the consumer with a unique personal identification number

29 or password to be used by the consumer when providing authorization for

30 the release of his or her credit report for a specific party or period

31 of time.

32 (5) If the consumer wishes to allow his or her credit report to be

33 accessed for a specific (~~party or~~) period of time while a freeze is

34 in place, he or she shall contact the consumer reporting agency,

35 request that the freeze be temporarily lifted, and provide the

36 following:

37 (a) Proper identification, which means that information generally

38 deemed sufficient to identify a person. Only if the consumer is unable

1 to sufficiently identify himself or herself, may a consumer reporting  
2 agency require additional information concerning the consumer's  
3 employment and personal or family history in order to verify his or her  
4 identity;

5 (b) The unique personal identification number or password provided  
6 by the credit reporting agency under subsection (4) of this section;  
7 (~~and~~)

8 (c) The proper information regarding the third party who is to  
9 receive the credit report or the time period for which the report is  
10 available to users of the credit report; and

11 (d) Payment of the fee required by the consumer reporting agency  
12 under subsection (13) of this section.

13 (6) A consumer reporting agency that receives a request from a  
14 consumer to temporarily lift a freeze on a credit report under  
15 subsection (5) of this section(~~(7)~~) shall comply with the request (~~no~~  
16 ~~later than~~) within:

17 (a) Three business days (~~after~~) of receiving the request by mail;  
18 or

19 (b) Fifteen minutes of receiving the request from the consumer  
20 through the electronic contact method chosen by the consumer reporting  
21 agency in accordance with subsection (8) of this section, if the  
22 request:

23 (i) Is received during normal business hours; and  
24 (ii) Includes the consumer's proper identification and correct  
25 personal identification number or password.

26 (7) A consumer reporting agency is not required to remove a  
27 security freeze within the time provided in subsection (6)(b) of this  
28 section if:

29 (a) The consumer fails to meet the requirements of subsection (5)  
30 of this section; or

31 (b) The consumer reporting agency's ability to remove the security  
32 freeze within fifteen minutes is prevented by:

33 (i) An act of God, including fire, earthquakes, hurricanes, storms,  
34 or similar natural disasters or phenomena;

35 (ii) Unauthorized or illegal acts by a third party, including  
36 terrorism, sabotage, riot, vandalism, labor strikes, or disputes  
37 disrupting operations, or similar occurrences;

1        (iii) An interruption in operations, including electrical failure,  
2 unanticipated delay in equipment or replacement part delivery, computer  
3 hardware or software failures inhibiting response time, or similar  
4 disruptions;

5        (iv) Governmental action, including emergency orders or  
6 regulations, judicial or law enforcement action, or similar directives;

7        (v) Regularly scheduled maintenance of, or updates to, the consumer  
8 reporting agency's systems outside of normal business hours;

9        (vi) Commercially reasonable maintenance of, or repair to, the  
10 consumer reporting agency's systems that is unexpected or unscheduled;  
11 or

12        (vii) Receipt of a removal request outside of normal business  
13 hours.

14        (8) A consumer reporting agency may develop procedures involving  
15 the use of telephone, fax, the internet, or other electronic media to  
16 receive and process a request from a consumer to temporarily lift a  
17 freeze on a credit report under subsection (5) of this section in an  
18 expedited manner.

19        ~~((+8+))~~ (9) A consumer reporting agency shall remove or temporarily  
20 lift a freeze placed on a consumer's credit report only in the  
21 following cases:

22        (a) Upon consumer request, under subsection (5) or ~~((+11+))~~ (12) of  
23 this section; or

24        (b) When the consumer's credit report was frozen due to a material  
25 misrepresentation of fact by the consumer. When a consumer reporting  
26 agency intends to remove a freeze upon a consumer's credit report under  
27 this subsection, the consumer reporting agency shall notify the  
28 consumer in writing prior to removing the freeze on the consumer's  
29 credit report.

30        ~~((+9+))~~ (10) When a third party requests access to a consumer  
31 credit report on which a security freeze is in effect, and this request  
32 is in connection with an application for credit or any other use, and  
33 the consumer does not allow his or her credit report to be accessed for  
34 that ~~((specific party or))~~ period of time, the third party may treat  
35 the application as incomplete.

36        ~~((+10+))~~ (11) When a consumer requests a security freeze, the  
37 consumer reporting agency shall disclose the process of placing and

1 temporarily lifting a freeze, and the process for allowing access to  
2 information from the consumer's credit report for a specific party or  
3 period of time while the freeze is in place.

4 ~~((+11+))~~ (12) A security freeze remains in place until the consumer  
5 requests that the security freeze be removed. A consumer reporting  
6 agency shall remove a security freeze within three business days of  
7 receiving a request for removal from the consumer, who provides both of  
8 the following:

9 (a) Proper identification, as defined in subsection (5)(a) of this  
10 section; and

11 (b) The unique personal identification number or password provided  
12 by the consumer reporting agency under subsection (4) of this section.

13 ~~((+12+))~~ (13)(a) Except as provided in (b) of this subsection, a  
14 consumer credit reporting agency may charge a fee of no more than five  
15 dollars to a consumer for each freeze, removal of the freeze, or  
16 temporary lift of the freeze for a period of time. If consumer  
17 agencies implement a single point of service for a freeze, the removal  
18 of a freeze, or the lift of a freeze, then only one fee may be charged  
19 for each action.

20 (b) A consumer credit reporting agency may not charge a fee to a  
21 victim of identity theft.

22 (c) A consumer credit reporting agency may not charge a consumer  
23 who has legally changed his or her name after the initial placement of  
24 a freeze a fee in addition to the initial fee charged to the consumer  
25 under (a) of this subsection for placement of a freeze, if the consumer  
26 would like the initial freeze to remain in place after his or her name  
27 change.

28 (14) This section does not apply to the use of a consumer credit  
29 report by any of the following:

30 (a) A person or entity, or a subsidiary, affiliate, or agent of  
31 that person or entity, or an assignee of a financial obligation owing  
32 by the consumer to that person or entity, or a prospective assignee of  
33 a financial obligation owing by the consumer to that person or entity  
34 in conjunction with the proposed purchase of the financial obligation,  
35 with which the consumer has or had prior to assignment an account or  
36 contract, including a demand deposit account, or to whom the consumer  
37 issued a negotiable instrument, for the purposes of reviewing the  
38 account or collecting the financial obligation owing for the account,

1 contract, or negotiable instrument. For purposes of this subsection,  
2 "reviewing the account" includes activities related to account  
3 maintenance, monitoring, credit line increases, and account upgrades  
4 and enhancements;

5 ~~(b) ((A subsidiary, affiliate, agent, assignee, or prospective  
6 assignee of a person to whom access has been granted under subsection  
7 (5) of this section for purposes of facilitating the extension of  
8 credit or other permissible use;~~

9 ~~(e))~~ Any federal, state, or local entity, including a law  
10 enforcement agency, court, or their agents or assigns;

11 ~~((d) A private collection agency))~~ (c) Any person acting under a  
12 court order, warrant, or subpoena;

13 ~~((e))~~ (d) A child support agency acting under Title IV-D of the  
14 social security act (42 U.S.C. et seq.);

15 ~~((f))~~ (e) The department of social and health services acting to  
16 fulfill any of its statutory responsibilities;

17 ~~((g))~~ (f) The internal revenue service acting to investigate or  
18 collect delinquent taxes or unpaid court orders or to fulfill any of  
19 its other statutory responsibilities;

20 ~~((h))~~ (g) The use of credit information for the purposes of  
21 prescreening as provided for by the federal fair credit reporting act;

22 ~~((i))~~ (h) Any person or entity administering a credit file  
23 monitoring subscription service to which the consumer has subscribed;

24 ~~(and~~

25 ~~(j))~~ (i) Any person or entity for the purpose of providing a  
26 consumer with a copy of his or her credit report upon the consumer's  
27 request; and

28 (j) A mortgage broker or loan originator required to be licensed  
29 under chapter 19.146 RCW.

30 (15) Liability may not result to the consumer credit reporting  
31 agency if through inadvertence or mistake the consumer credit reporting  
32 agency releases credit report information to a person or entity  
33 purporting to be a mortgage broker or loan originator under subsection  
34 (14) of this section that is, in fact, not a mortgage broker or loan  
35 originator.

36 (16) The consumer's request for a security freeze does not prohibit  
37 the consumer reporting agency from disclosing the consumer's credit

1 report for other than credit-related purposes consistent with the  
2 definition of credit report, as found in this section.

3 (17) A violation of subsection (6) of this section does not provide  
4 a cause of action under RCW 19.86.090. A violation of subsection (6)  
5 of this section is subject to all other remedies and penalties  
6 available under this chapter.

7 NEW SECTION. Sec. 2. This act takes effect September 1, 2008.

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