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SENATE BILL 5826

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State of Washington

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By Senators Berkey, Benton, Roach, Zarelli, Kauffman, Marr, Kilmer, Carrell, Hobbs, Schoesler, Franklin, Haugen and Shin

Read first time 02/02/2007. Referred to Committee on Financial Institutions & Insurance.

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(~~(7-a)~~):

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

8 (~~(a)~~) (i) A (~~victim of identity theft as defined in RCW~~  
9 9.35.020)) person who has a police report evidencing their claim to be  
10 a victim of a violation of RCW 9.35.020 and which report will be  
11 produced to a credit reporting agency, upon such credit reporting  
12 agency's request; or

13 (~~(b)~~) (ii) A person who has been notified by an agency, person,  
14 or business that owns or licenses computerized data of a breach in a  
15 computerized data system which has resulted in the acquisition of that  
16 person's unencrypted personal information by an unauthorized person or  
17 entity.

18 (b) "Credit report" means a consumer report, as defined in 15  
19 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in  
20 establishing a consumer's eligibility for credit for personal, family,  
21 or household purposes.

22 (c) "Normal business hours" means Sunday through Saturday, between  
23 the hours of 6:00 a.m. and 9:30 p.m. Pacific Standard Time.

24 (3) A consumer reporting agency shall place a security freeze on a  
25 consumer's credit report no later than five business days after  
26 receiving a written request from the consumer and payment of the fee  
27 required by the consumer credit reporting agency under subsection (13)  
28 of this section.

29 (4) The consumer reporting agency shall send a written confirmation  
30 of the security freeze to the consumer within ten business days and  
31 shall provide the consumer with a unique personal identification number  
32 or password to be used by the consumer when providing authorization for  
33 the release of his or her credit report for a specific party or period  
34 of time.

35 (5) If the consumer wishes to allow his or her credit report to be  
36 accessed for a specific (~~party or~~) period of time while a freeze is  
37 in place, he or she shall contact the consumer reporting agency,

1 request that the freeze be temporarily lifted, and provide the  
2 following:

3 (a) Proper identification, which means that information generally  
4 deemed sufficient to identify a person. Only if the consumer is unable  
5 to sufficiently identify himself or herself, may a consumer reporting  
6 agency require additional information concerning the consumer's  
7 employment and personal or family history in order to verify his or her  
8 identity;

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

12 (c) The proper information regarding ~~((the third party who is to  
13 receive the credit report or))~~ the time period for which the report is  
14 available to users of the credit report; and

15 (d) Payment of the fee required by the consumer credit reporting  
16 agency under subsection (13) of this section.

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

21 (a) Three business days ((after)) of receiving the request by mail;  
22 or

23 (b) Fifteen minutes of receiving the request from the consumer  
24 through the electronic contact method chosen by the consumer reporting  
25 agency in accordance with subsection (8) of this section, if the  
26 request:

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

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

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

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

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

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

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

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

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

12 (vi) Commercially reasonable maintenance of, or repair to, the  
13 consumer reporting agency's systems that is unexpected or unscheduled;  
14 or

15 (vii) Receipt of a removal request outside of normal business  
16 hours.

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

22 ~~((+8+))~~ (9) A consumer reporting agency shall remove or temporarily  
23 lift a freeze placed on a consumer's credit report only in the  
24 following cases:

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

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

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

1       ~~((10))~~ (11) When a consumer requests a security freeze, the  
2 consumer reporting agency shall disclose the process of placing and  
3 temporarily lifting a freeze, and the process for allowing access to  
4 information from the consumer's credit report for a specific ~~((party~~  
5 ~~or))~~ period of time while the freeze is in place.

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

11       (a) Proper identification, as defined in subsection (5)(a) of this  
12 section; ~~((and))~~

13       (b) The unique personal identification number or password provided  
14 by the consumer reporting agency under subsection (4) of this section;  
15 and

16       (c) Payment of the fee required by the consumer credit reporting  
17 agency under subsection (13) of this section.

18       ~~((12))~~ (13)(a) Except as provided in (b) of this subsection, a  
19 consumer credit reporting agency may charge a fee of no more than ten  
20 dollars to a consumer for placement of each freeze, temporary lift of  
21 the freeze, or removal of the freeze.

22       (b) A consumer credit reporting agency may not charge a fee to  
23 place a security freeze for a victim of identity theft.

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

26       (a) A person or entity, or a subsidiary, affiliate, or agent of  
27 that person or entity, or an assignee of a financial obligation owing  
28 by the consumer to that person or entity, or a prospective assignee of  
29 a financial obligation owing by the consumer to that person or entity  
30 in conjunction with the proposed purchase of the financial obligation,  
31 with which the consumer has or had prior to assignment an account or  
32 contract, including a demand deposit account, or to whom the consumer  
33 issued a negotiable instrument, for the purposes of reviewing the  
34 account or collecting the financial obligation owing for the account,  
35 contract, or negotiable instrument. For purposes of this subsection,  
36 "reviewing the account" includes activities related to account  
37 maintenance, monitoring, credit line increases, and account upgrades  
38 and enhancements;

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

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

7           ~~((d))~~ (c) A private collection agency acting under a court order,  
8 warrant, or subpoena;

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

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

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

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

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

20           ~~(and~~

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

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

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

32           (16) The consumer's request for a security freeze does not prohibit  
33 the consumer reporting agency from disclosing the consumer's credit  
34 report for other than credit-related purposes.

35           NEW SECTION. Sec. 2. This act takes effect July 1, 2009.

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