
Business & Financial Services Committee

HB 2859

Brief Description: Concerning credit report security freezes.

Sponsors: Representatives S. Hunt, Hudgins and Santos.

Brief Summary of Bill

- Permits an authorized representative to request a credit report security freeze on behalf of a minor or an incapacitated person.
- Permits any consumer to request a security freeze through a secure Internet website.
- Waives the fee for placing a security freeze on a minor's credit file if the consumer reporting agency already has a file on the minor.

Hearing Date: 1/26/16

Staff: David Rubenstein (786-7153).

Background:

Security Freezes Generally.

Any consumer in Washington may request that a consumer reporting agency (CRA) place a security freeze on the consumer's credit report. A "security freeze" is a prohibition on the CRA's release of a consumer's credit report to a third party intending to use the credit report to determine the consumer's eligibility for credit. The request for a security freeze must be submitted in writing via certified mail to the CRA. The CRA is permitted to charge \$10 for the placement of a security freeze.

Subject to certain exceptions, the CRA is prohibited from releasing the report or information from the report without the consumer's express permission. The CRA must give the consumer a personal identification number (PIN), which the consumer may use to make a request for a temporary lift of the freeze or for a release to a particular person or entity. The consumer

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reporting agency may charge \$10 for the removal or temporary lift of a security freeze. Victims of identity theft and persons over 65 years old may place or lift a security freeze free of charge.

Fifteen-Minute Thaws.

Unless prevented by an act of God or other intervening force, a CRA must allow a consumer to lift a freeze within 15 minutes of receiving the request from the consumer through the electronic contact method chosen by the CRA if the request:

- is received during normal business hours; and
- includes the consumer's proper identification, fee, and correct PIN or password.

Exemptions from Security Freezes.

The freeze does not apply to the use of a consumer credit report by specified entities, including:

- a person for whom the consumer has lifted the freeze;
- any federal, state, or local entity, or their agents;
- any person acting under a court order, warrant, or subpoena;
- a child support agency acting under Title IV-D of the Social Security Act (42 U.S.C. et seq.);
- the Department of Social and Health Services;
- the Internal Revenue Service;
- a mortgage broker or loan originator;
- the use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;
- any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; and
- any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

A CRA is not liable for the inadvertent release of a credit report to a person claiming to be a mortgage broker or loan originator if that person is not, in fact, a mortgage broker or loan originator.

A consumer's request for a security freeze does not prohibit the release of the consumer's credit report for other than credit-related purposes.

Change of Information.

If a security freeze is in place, the CRA may not change the consumer's name, birth date, social security number, or address in its file on that consumer without written notice to the consumer within thirty days of the change being made.

Enforcement.

Except with regard to temporary lifts discussed below, a violation of a consumer's security freeze rights is a violation of the Consumer Protection Act.

Consumers have no private cause of action for violations of the CRA's failure to lift a security freeze. Enforcement is placed exclusively with the attorney general.

Birth Certificates.

The Department of Health (DOH) administers state laws regarding birth certificates and other vital records. The DOH is responsible for issuing certified copies of vital records, including birth certificates showing the child's full name, sex, date of birth, and date of filing the certificate, but local health authorities may also issue birth certificates. The statutes governing birth certificates establish a standard birth certificate form, the requirements for completing and forwarding birth certificate information, and requirements for issuing new or amended birth certificates.

Guardians and Guardians ad Litem.

Guardianship is a legal process through which a guardian is given the power to make decisions for a person who is determined to be "incapacitated" and therefore unable to take care of himself or herself. A person may be incapacitated if the individual is at a significant risk of financial harm because of an inability to manage his or her property or financial affairs or has a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety.

A guardian ad litem (GAL) is an individual appointed by a superior court to represent the best interests of a child or incapacitated person in guardianship matters, dependency matters, or family court matters. A GAL can be employed by a county, be self-employed, or be a volunteer. Each county maintains a registry of persons willing and qualified to serve as a GAL.

Summary of Bill:

Definitions.

The definitions contained in the security freeze statute are moved to a new section. The definition of "security freeze" is amended to remove reference to the purpose of the party receiving the credit report. New definitions are added as discussed below.

Requests via the Internet.

Any consumer may request a security freeze on his or her credit report via a secure Internet website, rather than only by certified mail.

Protected Consumer Security Freezes.

A representative may request a security freeze on behalf of a protected consumer by the same method and subject to the same provisions that apply to a consumer requesting a security freeze on the consumer's own behalf. "Protected consumer" is defined to mean:

- a person under the age of 16 years old at the time of the request; or
- an incapacitated person for whom a guardian or guardian ad litem has been appointed.

"Representative" is defined to mean a person who can provide sufficient proof of authority to act on behalf of a protected consumer. "Sufficient proof of authority" means:

- a copy of the consumer's birth certificate if the representative is the consumer's parent;
- a court order;
- a valid power of attorney; or
- a notarized written statement signed by the representative describing the representative's authority to act on the consumer's behalf.

To request a security freeze on behalf of a protected consumer, the representative must provide proof of identity for both the representative and the protected consumer and sufficient proof of authority to act on behalf of the protected consumer. If the consumer reporting agency (CRA) does not have a credit file on the protected consumer at the time of the request, the agency must create a file and place a freeze on it.

The \$10 fee for placing and lifting a security freeze is waived for minors under the age of 16 on whom the CRA already has a file at the time of the request.

The processes and provisions applicable to consumers requesting and lifting security freezes are applied to representatives acting on behalf of protected consumers.

Information to Accompany Birth Certificates.

The issuer of a birth certificate must include information prepared by the DOH describing the availability of and procedures for obtaining a security freeze on behalf of the child.

Appropriation: None.

Fiscal Note: Requested on January 25, 2016.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.