
A BILL FOR AN ACT

RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding to title 26 a new chapter to be appropriately designated
3 and to read as follows:
4
5 **"CHAPTER**
6 **CONSUMER CREDIT REPORTING AGENCIES**
7
8 § -1 **Purpose.** The Federal Trade Commission recently
9 determined that, between October 1998 and September 2003, more
10 than twenty-seven million three hundred thousand Americans have
11 been victims of identity theft, resulting in billions of dollars
12 of losses to consumers. The purpose of this chapter is to
13 protect Hawaii consumers who are victims of identity theft by
14 allowing them to place a security freeze on their credit
15 reports. This security freeze will prohibit a credit reporting
16 agency from releasing any information without the consumer's
17 express authorization and provide consumers more control over
18 who has access to their credit report. This chapter will
effectively prevent identity thieves from continuing to secure
credit in a victim's name.



1 § -2 **Definitions.** When used in this chapter, unless the
2 context otherwise requires:

3 "Credit report" means any written, oral, or other
4 communication of any credit information by a credit reporting
5 agency, as defined in the federal Fair Credit Reporting Act,
6 that operates or maintains a database of consumer credit
7 information bearing on a consumer's credit worthiness, credit
8 standing, or credit capacity.

9 "Credit reporting agency" means any person who, for
10 monetary fees, dues, or on a cooperative nonprofit basis,
11 regularly engages in whole or in part in the practice of
12 assembling or evaluating consumer credit information or other
13 information on consumers for the purpose of furnishing consumer
14 credit reports to third parties, but does not include any
15 governmental agency whose records are maintained primarily for
16 law enforcement or licensing purposes.

17 "Identity theft" means the unauthorized use of another
18 person's identifying information to obtain credit, goods,
19 services, money, or property.

20 "Security freeze" means a notice placed in a credit report,
21 at the request of the consumer who is a victim of identity
22 theft.



1 § -3 **Security freeze by credit reporting agency.** (a) A
2 consumer who has been the victim of identity theft may place a
3 security freeze on the consumer's credit report by making a
4 request in writing by certified mail to a credit reporting
5 agency, accompanied by a valid copy of a police report,
6 investigative report, or complaint the consumer has filed with a
7 law enforcement agency about unlawful use of the consumer's
8 personal information by another person. A credit reporting
9 agency shall not charge a fee for placing or removing a security
10 freeze on a credit report. A security freeze shall prohibit the
11 credit reporting agency from releasing the consumer's credit
12 report or any information from the report without the express
13 authorization of the consumer. When a security freeze is in
14 place, information from a consumer's credit report shall not be
15 released to a third party without prior express authorization
16 from the consumer. This subsection does not prevent a credit
17 reporting agency from advising a third party that a security
18 freeze is in effect with respect to the consumer's credit
19 report.

20 (b) A credit reporting agency shall place a security
21 freeze on a consumer's credit report no later than five business
22 days after receiving a written request from the consumer.



1 (c) The credit reporting agency shall send a written
2 confirmation of the security freeze to the consumer within ten
3 business days of placing the security freeze and shall provide
4 the consumer with a unique personal identification number or
5 password, other than the consumer's social security number, to
6 be used by the consumer when providing authorization for the
7 release of the consumer's credit for a specific party, parties,
8 or period of time.

9 (d) A security freeze shall remain in place until the
10 consumer requests that the security freeze be removed. A credit
11 reporting agency shall remove a security freeze within three
12 business days of receiving a request for removal from the
13 consumer who provides both of the following:

- 14 (1) Clear and proper identification; and
- 15 (2) The unique personal identification number or password
16 provided by the credit reporting agency pursuant to
17 subsection (c).

18 (e) A credit reporting agency shall remove or temporarily
19 lift a freeze placed on a consumer's credit report only in the
20 following cases:

- 21 (1) Upon consumer request; or



1 (2) When the consumer's credit report was frozen due to a
2 material misrepresentation of fact by the consumer.
3 If a credit reporting agency intends to remove a freeze upon a
4 consumer's credit report pursuant to this subsection, the credit
5 reporting agency shall notify the consumer in writing prior to
6 removing the freeze on the consumer's credit report.

7 (f) If a third party requests access to a credit report on
8 which a security freeze is in effect in connection with an
9 application for credit or any other use and the consumer does
10 not allow the consumer's credit report to be accessed for that
11 specific party or period of time, the third party may treat the
12 application as incomplete.

13 (g) The provisions of this section, including the security
14 freeze, do not apply to the use of a consumer report by the
15 following:

16 (1) A person, or the person's subsidiary, affiliate,
17 agent, or assignee with which the consumer has or,
18 prior to assignment, had an account, contract, or
19 debtor-creditor relationship for the purposes of
20 reviewing the account or collecting the financial
21 obligation owing for the account, contract, or debt,
22 or extending credit to a consumer with a prior or



- 1 existing account, contract, or debtor-creditor
2 relationship. For purposes of this paragraph,
3 "reviewing the account" includes activities related to
4 account maintenance, monitoring, credit line
5 increases, and account upgrades and enhancements;
- 6 (2) A subsidiary, affiliate, agent, assignee, or
7 prospective assignee of a person to whom access has
8 been granted for purposes of facilitating the
9 extension of credit or other permissible use;
- 10 (3) Any person acting pursuant to a court order, warrant,
11 or subpoena;
- 12 (4) A child support enforcement agency when investigating
13 a child support case pursuant to Title IV-D of the
14 Social Security Act (42 U.S.C. 651 et seq) and section
15 4102 of Title 33;
- 16 (5) The department of the attorney general or county
17 prosecuting attorneys or their agents or assignees
18 acting to investigate medicaid fraud;
- 19 (6) The department of taxation, county taxing authorities,
20 or any of their agents or assignees, acting to
21 investigate or collect delinquent taxes or
22 assessments, including interest and penalties, unpaid



1 court orders, or to fulfill any of their other
2 statutory or charter responsibilities;

3 (7) The use of credit information for the purposes of
4 prescreening as provided by the federal Fair Credit
5 Reporting Act (15 U.S.C. 1681-1681u);

6 (8) Any person for the sole purpose of providing a credit
7 file monitoring subscription service to which the
8 consumer has subscribed; and

9 (9) A credit reporting agency for the sole purpose of
10 providing a consumer with a copy of the consumer's
11 credit report upon the consumer's request.

12 § -4 **Temporary lift of security freeze.** (a) Whenever a
13 consumer requests a security freeze, the credit reporting agency
14 shall disclose to the consumer the process of placing and
15 temporarily lifting a security freeze and the process for
16 allowing access to information from the consumer's credit report
17 for a specific party, parties, or period of time while the
18 security freeze is in place.

19 (b) If the consumer wishes to allow access to the
20 consumer's credit report for a specific party, parties, or
21 period of time while a freeze is in place, the consumer shall

1 contact the credit reporting agency, request that the freeze be
2 temporarily lifted, and provide the following:

- 3 (1) Clear and proper identification;
- 4 (2) The unique personal identification number or password
5 provided by the credit reporting agency; and
- 6 (3) Clear and proper information regarding the third
7 party, parties, or time period for which the report
8 shall be available to users of the credit report.

9 (c) A credit reporting agency may develop procedures
10 involving the use of telephone, fax, the Internet, or other
11 electronic media to receive and process a request from a
12 consumer to temporarily lift a freeze on a credit report in an
13 expedited manner.

14 (d) A credit reporting agency that receives a request from
15 a consumer to temporarily lift a freeze on a credit report shall
16 comply with the request no later than three business days after
17 receiving the request.

18 **§ -5 Credit reporting agency duties if security freeze**
19 **in place.** If a security freeze is in place, a credit reporting
20 agency shall not change any of the following official
21 information in a credit report without sending a written
22 confirmation of the change to the consumer within thirty days of



1 the change being posted to the consumer's file: name, date of
2 birth, social security number, and address. Written
3 confirmation is not required for technical modifications of a
4 consumer's official information, including name and street
5 abbreviations, complete spellings, or transposition of numbers
6 or letters. In the case of an address change, the written
7 confirmation shall be sent to both the new address and the
8 former address.

9 § -6 **Persons not required to place security freeze.** The
10 requirement under this chapter to place a security freeze on a
11 credit report shall not apply to:

- 12 (1) A check services or fraud prevention services company
13 that reports on incidents of fraud or issues
14 authorizations for the purpose of approving or
15 processing negotiable instruments, electronic fund
16 transfers, or similar methods of payment;
- 17 (2) A deposit account information service company that
18 issues reports regarding account closures due to
19 fraud, substantial overdrafts, ATM abuse, or similar
20 negative information regarding a consumer to inquiring
21 banks or other financial institutions for use only in

1 reviewing a consumer request for a deposit account at
2 the inquiring bank or financial institution; and

3 (3) A credit reporting agency that:

4 (A) Acts only to resell credit information by
5 assembling and merging information contained in a
6 database of one or more credit reporting
7 agencies; and

8 (B) Does not maintain a permanent database of credit
9 information from which new credit reports are
10 produced.

11 § -7 **Violation, penalties.** Any person who violates any
12 provision of this chapter shall be deemed to have engaged in an
13 unfair or deceptive act or practice in the conduct of trade or
14 commerce within the meaning of section 480-2."

15 SECTION 2. This Act shall take effect on July 1, 2006.

16

INTRODUCED BY: TBaker
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JAN 18 2006

HB 1871

Report Title:

Consumer Credit Reporting Agencies; Identity Theft

Description:

Allows the victims of identity theft to place a "security freeze" on their credit reports prohibiting a credit reporting agency from releasing information without the consumer's express consent. Effective date 7/1/06.

