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# 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 adding  
2 to title 26 a new chapter to be appropriately designated and to  
3 read as follows:

4 **"CHAPTER**

5 **CONSUMER CREDIT REPORTING AGENCIES**

6 § -1 **Purpose.** The Federal Trade Commission recently  
7 determined that between October 1998, and September 2003, more  
8 than twenty-seven million three hundred Americans have been  
9 victims of identity theft, resulting in billions of dollars of  
10 losses to consumers. The purpose of this chapter is to protect  
11 Hawaii consumers who are victims of identity theft by allowing  
12 them to place a security freeze on their credit reports. This  
13 security freeze will prohibit a consumer reporting agency from  
14 releasing any information to unauthorized parties without the  
15 consumer's express authorization and provide consumers more  
16 control over who has access to their credit report. This  
17 chapter aims to effectively prevent identity thieves from  
18 continuing to secure credit in an identity theft victim's name.



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

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

11          "Credit report" means any written, oral, or other  
12 communication of any credit information by a consumer reporting  
13 agency, as defined in the federal Fair Credit Reporting Act,  
14 which operates or maintains a database of consumer credit  
15 information bearing on a consumer's credit worthiness, credit  
16 standing, or credit capacity.

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 consumer reporting agency.**   (a)

2   A 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 consumer credit  
5   reporting agency, at an address designated by the agency to  
6   receive such requests, with a valid copy of a police report,  
7   investigative report, or complaint the consumer has filed with a  
8   law enforcement agency about unlawful use of the consumer's  
9   personal information by another person. A consumer credit  
10  reporting agency shall not charge a fee for placing or removing  
11  a security freeze on a credit report. A security freeze shall  
12  prohibit the consumer credit reporting agency from releasing the  
13  consumer's credit report or any information from it without the  
14  express authorization of the consumer. This subsection shall  
15  not prevent a consumer reporting agency from advising a third  
16  party that a security freeze is in effect with respect to the  
17  consumer's credit report.

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

21           (c) The consumer reporting agency shall send a written  
22  confirmation of the security freeze to the consumer within ten



1 business days of placing the security freeze and shall provide  
2 the consumer with a unique personal identification number or  
3 password, other than the consumer's social security number, to  
4 be used by the consumer when providing authorization for the  
5 release of the consumer's credit report for a specific party,  
6 parties, or period of time.

7 (d) If the consumer wishes to allow access to the  
8 consumer's credit report for a specific party, parties, or  
9 period of time while a freeze is in place, the consumer shall  
10 contact the consumer reporting agency at a point of contact  
11 designated by the agency using the procedures that may be  
12 developed by the consumer reporting agency, request that the  
13 freeze be temporarily lifted, and provide the following:

- 14 (1) Clear and proper identification;  
15 (2) The unique personal identification number or password  
16 provided by the consumer reporting agency; and  
17 (3) Clear and proper information regarding the third  
18 party, parties, or time period for which the report  
19 shall be available to users of the credit report.

20 (e) A consumer reporting agency may develop procedures  
21 involving the use of telephone, fax, the Internet, or other  
22 electronic media to receive and process a request from a



1 consumer to temporarily lift a freeze on a credit report in an  
2 expedited manner.

3 (f) A consumer reporting agency that receives a request  
4 from a consumer to temporarily lift a freeze on a credit report  
5 shall comply with the request no later than three business days  
6 after receiving the request.

7 (g) A consumer reporting agency shall remove or  
8 temporarily lift a freeze placed on a consumer's credit report  
9 only in the following cases:

10 (1) Upon consumer request; or

11 (2) When the consumer's credit report was frozen due to a  
12 material misrepresentation of fact by the consumer.

13 If a consumer reporting agency intends to remove a freeze upon a  
14 consumer's credit report pursuant to this subsection, the  
15 consumer reporting agency shall notify the consumer in writing  
16 prior to removing the freeze on the consumer's credit report.

17 (h) If a third party requests access to a credit report on  
18 which a security freeze is in effect and this request is in  
19 connection with an application for credit or any other use and  
20 the consumer does not allow the consumer's credit report to be  
21 accessed by that specific party or for that period of time, the  
22 third party may treat the application as incomplete.



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

7 (j) A security freeze shall remain in place until the  
8 consumer requests that the security freeze be removed. A  
9 consumer reporting agency shall remove a security freeze within  
10 three business days of receiving a request for removal at a  
11 point of contact designated by the agency using procedures that  
12 may be developed by the consumer reporting agency; provided that  
13 the consumer shall provide the following:

14 (1) Clear and proper identification; and

15 (2) The unique personal identification number or password  
16 provided by the consumer reporting agency pursuant to  
17 subsection (c).

18 (k) A consumer reporting agency shall require clear and  
19 proper identification of the person making a request to place or  
20 remove a security freeze.



1           (1) The provisions of this section, including the security  
2 freeze, do not apply to the use of a consumer's credit report by  
3 the following:

4           (1) A person, or the person's subsidiary, affiliate,  
5 agent, or assignee with which the consumer has or,  
6 prior to assignment, had an account, contract, or  
7 debtor-creditor relationship for the purposes of  
8 reviewing the account or collecting the financial  
9 obligation owing for the account, contract, or debt,  
10 or extending credit to a consumer with a prior or  
11 existing account, contract, or debtor-creditor  
12 relationship. For purposes of this subsection,  
13 "reviewing the account" includes activities related to  
14 account maintenance, monitoring, credit line  
15 increases, and account upgrades and enhancements;

16           (2) A subsidiary, affiliate, agent, assignee, or  
17 prospective assignee of a person to whom access has  
18 been granted for purposes of facilitating the  
19 extension of credit or other permissible use;

20           (3) Any person acting pursuant to a court order, warrant,  
21 or subpoena;

- 1 (4) A child support enforcement agency when investigating  
2 a child support case pursuant to Title IV-D of the  
3 Social Security Act (42 U.S.C. Sections 651 to 669b);
- 4 (5) The department of the attorney general or county  
5 prosecuting attorneys or their agents or assignees  
6 acting to investigate medicaid fraud;
- 7 (6) The department of taxation, county taxing authorities,  
8 or any of their agents or assignees, acting to  
9 investigate or collect delinquent taxes or  
10 assessments, including interest and penalties, unpaid  
11 court orders, or to fulfill any of their other  
12 statutory or charter responsibilities;
- 13 (7) The use of credit information for the purposes of  
14 prescreening as provided by the federal Fair Credit  
15 Reporting Act (15 U.S.C. Sections 1681 to 1681x);
- 16 (8) Any person for the sole purpose of providing a credit  
17 file monitoring subscription service to which the  
18 consumer has subscribed;
- 19 (9) A person for the sole purpose of providing a consumer  
20 with a copy of the consumer's credit report upon the  
21 consumer's request; and





1 (10) Any person or entity using a credit report in setting  
2 or adjusting a rate, adjusting a claim, or  
3 underwriting for insurance purposes.

4 § -4 **Consumer reporting agency duties if security freeze**  
5 **in place.** If a security freeze is in place, a consumer  
6 reporting agency shall not change any of the following official  
7 information in a credit report without sending a written  
8 confirmation of the change to the consumer within thirty days of  
9 the change being posted to the consumer's file: name, date of  
10 birth, social security number, and address. Written  
11 confirmation shall not be required for technical modifications  
12 of a consumer's official information, including name and street  
13 abbreviations, complete spellings, or transposition of numbers  
14 or letters. In the case of an address change, the written  
15 confirmation shall be sent to both the new address and the  
16 former address.

17 § -5 **Persons not required to place security freeze.** The  
18 requirement under this chapter to place a security freeze on a  
19 credit report shall not apply to:

20 (1) A check services or fraud prevention services company  
21 that reports on incidents of fraud or issues  
22 authorizations for the purpose of approving or



- 1 processing negotiable instruments, electronic fund  
2 transfers, or similar methods of payment;
- 3 (2) A deposit account information service company that  
4 issues reports regarding account closures due to  
5 fraud, substantial overdrafts, ATM abuse, or similar  
6 negative information regarding a consumer to inquiring  
7 banks or other financial institutions for use only in  
8 reviewing a consumer request for a deposit account at  
9 the inquiring bank or financial institution;
- 10 (3) A consumer reporting agency that:
- 11 (A) Acts only to resell credit information by  
12 assembling and merging information contained in a  
13 database of one or more consumer reporting  
14 agencies; and
- 15 (B) Does not maintain a permanent database of credit  
16 information from which new credit reports are  
17 produced.

18 § -6 **Violation, penalties.** (a) A person who violates  
19 any provision of this chapter shall be subject to penalties of  
20 not more than \$2,500 for each violation. The attorney general  
21 or the executive director of the office of consumer protection  
22 may bring an action pursuant to this section.



1           (b) In addition to any penalty provided for in subsection  
2 (a), any person who violates any provision of this chapter shall  
3 be liable to the injured party in an amount equal to the sum of  
4 any actual damages sustained by the injured party as a result of  
5 the violation. The court in any action brought under this  
6 section may award reasonable attorneys' fees to the prevailing  
7 party.

8           (c) The penalties provided in this section shall be  
9 cumulative to the remedies or penalties available under all  
10 other laws of the State."

11           SECTION 2. This Act shall take effect on January 1, 2007.



**Report Title:**

Consumer Credit Reporting Agencies; Identity Theft

**Description:**

Allows consumers who are victims of identity theft to place a security freeze on their credit reports that will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization. Allows for temporary access to a credit report despite a security freeze under certain circumstances by request of the consumer. Provides penalties. (HB1871 CD1)

