

1 § -1 **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 consumer reporting
5 agency, as defined in the federal Fair Credit Reporting Act,
6 which operates or maintains a database of consumer credit
7 information bearing on a consumer's credit worthiness, credit
8 standing, or credit capacity.

9 "Consumer reporting agency" means any person who, for
10 monetary fees or 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.

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1 **§ -2 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 reporting
5 agency with a valid copy of a police report, investigative
6 report, or complaint the consumer has filed with a law
7 enforcement agency about unlawful use of the consumer's personal
8 information by another person. A consumer reporting agency
9 shall not charge a fee for placing or removing a security freeze
10 on a credit report. A security freeze shall prohibit the
11 consumer reporting agency from releasing the consumer's credit
12 report or any information from it 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 consumer
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 consumer 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.

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S.B. NO. 2289
S.D. 2

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 for that specific party or period of time, the third
22 party may treat the application as incomplete.

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S.B. NO. 2289
S.D. 2

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 from the
11 consumer who provides both of the following:

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

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

19 (l) The provisions of this section, including the security
20 freeze, do not apply to the use of a consumer report by the
21 following:

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- 1 (1) A person, or the person's subsidiary, affiliate,
2 agent, or assignee with which the consumer has or,
3 prior to assignment, had an account, contract, or
4 debtor-creditor relationship for the purposes of
5 reviewing the account or collecting the financial
6 obligation owing for the account, contract, or debt,
7 or extending credit to a consumer with a prior or
8 existing account, contract, or debtor-creditor
9 relationship. For purposes of this subsection,
10 "reviewing the account" includes activities related to
11 account maintenance, monitoring, credit line
12 increases, and account upgrades and enhancements;
- 13 (2) A subsidiary, affiliate, agent, assignee, or
14 prospective assignee of a person to whom access has
15 been granted for purposes of facilitating the
16 extension of credit or other permissible use;
- 17 (3) Any person acting pursuant to a court order, warrant,
18 or subpoena;
- 19 (4) A child support enforcement agency when investigating
20 a child support case pursuant to Title IV-D of the
21 Social Security Act (42 U.S.C. sections 651 to 669b);

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- 1 (5) The department of the attorney general or county
- 2 prosecuting attorneys or their agents or assignees
- 3 acting to investigate medicaid fraud;
- 4 (6) The department of taxation, county taxing authorities,
- 5 or any of their agents or assignees, acting to
- 6 investigate or collect delinquent taxes or
- 7 assessments, including interest and penalties, unpaid
- 8 court orders, or to fulfill any of their other
- 9 statutory or charter responsibilities;
- 10 (7) The use of credit information for the purposes of
- 11 prescreening as provided by the federal Fair Credit
- 12 Reporting Act (15 U.S.C. sections 1681 to 1681v);
- 13 (8) Any person for the sole purpose of providing a credit
- 14 file monitoring subscription service to which the
- 15 consumer has subscribed;
- 16 (9) A consumer reporting agency for the sole purpose of
- 17 providing a consumer with a copy of the consumer's
- 18 credit report upon the consumer's request; and
- 19 (10) Any person or entity using a credit report in setting
- 20 or adjusting a rate, adjusting a claim, or
- 21 underwriting for insurance purposes.

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S.B. NO. 2289
S.D. 2

1 § -3 **Consumer reporting agency duties if security freeze**
2 **in place.** If a security freeze is in place, a consumer
3 reporting agency shall not change any of the following official
4 information in a credit report without sending a written
5 confirmation of the change to the consumer within thirty days of
6 the change being posted to the consumer's file: name, date of
7 birth, social security number, and address. Written
8 confirmation is not required for technical modifications of a
9 consumer's official information, including name and street
10 abbreviations, complete spellings, or transposition of numbers
11 or letters. In the case of an address change, the written
12 confirmation shall be sent to both the new address and the
13 former address.

14 § -4 **Persons not required to place security freeze.** The
15 requirement under this chapter to place a security freeze on a
16 credit report does not apply to:

- 17 (1) A check services or fraud prevention services company
- 18 that reports on incidents of fraud or issues
- 19 authorizations for the purpose of approving or
- 20 processing negotiable instruments, electronic fund
- 21 transfers, or similar methods of payment;

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S.B. NO. 2289
S.D. 2

1 (2) A deposit account information service company that
 2 issues reports regarding account closures due to
 3 fraud, substantial overdrafts, ATM abuse, or similar
 4 negative information regarding a consumer to inquiring
 5 banks or other financial institutions for use only in
 6 reviewing a consumer request for a deposit account at
 7 the inquiring bank or financial institution;

8 (3) A consumer reporting agency that:

9 (A) Acts only to resell credit information by
 10 assembling and merging information contained in a
 11 database of one or more consumer reporting
 12 agencies; and

13 (B) Does not maintain a permanent database of credit
 14 information from which new credit reports are
 15 produced.

16 § -5 **Violation, penalties.** (a) Any person who violates
 17 any provision of this chapter shall be deemed to have engaged in
 18 an unfair or deceptive act or practice in the conduct of trade
 19 or commerce within the meaning of section 480-2. The attorney
 20 general or the director of the office of consumer protection may
 21 bring an action based upon unfair or deceptive acts or practices
 22 declared unlawful by this section.

PROPOSED

S.B. NO. 2289
S.D. 2

1 (b) In addition to any penalty provided for in subsection
2 (a), any person who violates any provision of this chapter is
3 liable to the injured party in an amount equal to the sum of any
4 actual damages sustained by the injured party as a result of the
5 violation, or damages not less than \$500, whichever is greater.
6 The court, in any action brought under this section, may award
7 reasonable attorneys' fees to the prevailing party."

8 SECTION 3. This Act shall take effect on January 1, 2007.

Report Title:
Identity Theft; Credit Reports

PROPOSED

Description:

Allows consumers who are victims of identity theft to place a security freeze on their credit reports which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express consent and provide consumers more control over who has access to their credit report. (SD2)

