

A Bill for an Act Relating to Consumer Credit Reporting Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that recent events involving security breaches of databases containing sensitive identifying information, such as social security numbers and addresses, have shown that these databases continue to be at high risk of infiltration by identity thieves.

Accordingly, the purpose of this Act is to enhance consumer protections by:

- (1) Expanding the methods by which a consumer may request a security freeze; and
- (2) Specifying that a consumer credit reporting agency shall not charge a fee for placing, lifting, or removing a security freeze on a consumer's credit report or for placing or removing a security freeze on a protected consumer's credit report or records.

SECTION 2. Section 489P-1, Hawaii Revised Statutes, is amended to read as follows:

“~~§489P-1~~ Purpose. The Federal Trade Commission [~~recently~~] determined that between October 1998~~;~~ and September 2003, more than twenty-seven million three hundred Americans [~~have been~~] were victims of identity theft, resulting in billions of dollars of losses to consumers. The purpose of this chapter is to protect Hawaii consumers [~~who are victims of identity theft~~] by allowing [~~them~~] consumers to place a security freeze on their credit reports. This security freeze will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express authorization and provide consumers more control over who has access to their credit report. This chapter aims to effectively prevent identity thieves from continuing to secure credit in [~~an identity theft victim's~~] someone else's name.”

SECTION 3. Section 489P-2, Hawaii Revised Statutes, is amended as follows:

- 1. By amending the definition of “security freeze” to read:
 ““Security freeze” means a notice placed in a credit report~~;~~ at the request of the consumer [~~who is a victim of identity theft.~~] or the protected consumer's representative.”
- 2. By deleting the definition of “identity theft”.
 [~~“Identity theft” means the unauthorized use of another person's identifying information to obtain credit, goods, services, money, or property.”]~~

SECTION 4. Section 489P-3, Hawaii Revised Statutes, is amended as follows:

- 1. By amending subsection (a) to read:
 “(a) Any consumer who is a resident of this State may place a security freeze on the consumer's credit report. A consumer credit reporting agency shall not charge [~~a victim of identity theft~~] a fee for placing, lifting, or removing a security freeze on a credit report [~~but may charge any other consumer a fee not to exceed \$5 for each request by the consumer to place, lift, or remove a security freeze from the consumer's credit report~~].

A consumer who is a resident of this State [~~and has been the victim of identity theft~~] may place a security freeze on the consumer's credit report by making a request [~~in writing by certified mail~~] to a consumer credit reporting agency, at an address, telephone number, or website designated by the consumer credit reporting agency to receive such requests, [~~with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of the consumer's personal information by another person. A consumer who has not been the victim of identity theft may place a security freeze on the consumer's credit report by making a request in writing by certified mail to a consumer credit reporting agency.~~] by any of the following methods:

- (1) First-class mail;
- (2) Telephone call; or
- (3) Secure website.

A security freeze shall prohibit the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. This subsection shall not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report."

2. By amending subsection (g) to read:

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

- (1) Upon consumer request; or
- (2) When the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer.

If a consumer reporting agency [~~intends to remove~~] removes a security freeze upon a consumer's credit report pursuant to this subsection, the consumer reporting agency shall [~~notify~~] send a written confirmation of the removal of the security freeze to the consumer [in writing prior to] within five business days of removing the security freeze on the consumer's credit report."

SECTION 5. Section 489P-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) A consumer credit reporting agency shall place a security freeze on a protected consumer's credit report or records if:

- (1) The consumer credit reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and
- (2) The protected consumer's representative:
 - (A) Submits the request to the consumer credit reporting agency at the address or other point of contact specified by the consumer credit reporting agency;
 - (B) Provides to the consumer credit reporting agency sufficient proof of identification of the protected consumer and the protected consumer's representative; and
 - (C) Provides to the consumer credit reporting agency sufficient proof of authority to act on behalf of the protected consumer; and
 - (~~D~~) Pays to the consumer credit reporting agency a fee as provided in subsection (h)."

2. By amending subsection (f) to read:

“(f) If a protected consumer or a protected consumer’s representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer’s representative shall:

- (1) Submit a request for the removal of the security freeze to the consumer credit reporting agency at the address or other point of contact specified by the consumer credit reporting agency; and
- (2) Provide to the consumer credit reporting agency:
 - (A) In the case of a request by the protected consumer:
 - (i) Proof that the sufficient proof of authority for the protected consumer’s representative to act on behalf of the protected consumer is no longer valid; and
 - (ii) Sufficient proof of identification of the protected consumer; or
 - (B) In the case of a request by the representative of a protected consumer:
 - (i) Sufficient proof of identification of the protected consumer and the representative; and
 - (ii) Sufficient proof of authority to act on behalf of the protected consumer]; and
- (3) ~~Pay to the consumer credit reporting agency a fee as provided in subsection (h)].”~~

3. By amending subsection (h) to read:

“(h) A consumer credit reporting agency [may] shall not charge a [reasonable] fee[, not to exceed \$5, for each placement or removal of] for placing or removing a security freeze on a credit report or records for a protected consumer]; provided that a consumer credit reporting agency shall not charge a fee under this section if:

- (1) ~~The protected consumer’s representative has a valid copy of a police report, investigative report, or complaint which the protected consumer or the protected consumer’s representative has filed with a law enforcement agency regarding the unlawful use of the protected consumer’s personal information by another person, and provides a copy of the report to the consumer credit reporting agency; or~~
- (2) ~~A request for the placement or removal of a security freeze is for a protected consumer who is under the age of sixteen at the time of the request and the consumer credit reporting agency has a credit report pertaining to the protected consumer].”~~

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2018.

(Approved June 4, 2018.)