

SENATE BILL 52

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SB 487/06 – FIN

71r0354

By: **Senators Forehand, Frosh, Britt, and Della**
Introduced and read first time: January 18, 2007
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Consumer Reporting Agencies – Consumer Reports –**
3 **Security Freezes**

4 FOR the purpose of authorizing a consumer to elect to place a security freeze on all or
5 part of the consumer's consumer report; establishing procedures for requesting
6 a security freeze; requiring a consumer reporting agency to place a security
7 freeze on a consumer's consumer report within a certain number of days after a
8 request is received and to take certain actions within a certain number of
9 business days after placing a security freeze on a consumer's consumer report;
10 providing that while a security freeze is in place, a consumer reporting agency
11 may not provide any information in a consumer's consumer report without
12 certain authorization of the consumer; requiring a consumer reporting agency to
13 give certain notice to a consumer if any person requests access to a consumer's
14 consumer report under certain circumstances; establishing procedures for
15 requesting a security freeze to be lifted temporarily or removed; requiring a
16 consumer reporting agency to temporarily lift or remove a security freeze within
17 a certain number of days after receiving a request from a consumer; requiring a
18 consumer reporting agency to develop certain procedures on or before a certain
19 date; prohibiting a consumer reporting agency from charging a consumer for
20 any service relating to a security freeze; providing a certain exception; requiring
21 a consumer reporting agency to give certain notices to a consumer at certain
22 times; authorizing a consumer who is affected by a violation of certain
23 provisions of this Act to bring a certain action; establishing certain penalties;
24 providing for the application of this Act; defining certain terms; making a
25 conforming change; and generally relating to consumer reporting agencies and
26 security freezes on consumer reports.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Commercial Law
3 Section 14–1202(a)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2006 Supplement)

6 BY adding to
7 Article – Commercial Law
8 Section 14–1202.1
9 Annotated Code of Maryland
10 (2005 Replacement Volume and 2006 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Commercial Law**

14 14–1202.

15 (a) Subject to subsection (b) of this section and [~~§ 14–1205~~] §§ **14–1202.1**
16 **AND 14–1205** of this subtitle, a consumer reporting agency may furnish a consumer
17 report under the following circumstances and no other:

18 (1) In response to the order of a court having jurisdiction to issue the
19 order;

20 (2) In accordance with the written instructions of the consumer to
21 whom it relates; or

22 (3) To a person which the agency has reason to believe:

23 (i) Intends to use the information in connection with a credit
24 transaction involving the consumer on whom the information is to be furnished and
25 involving the extension of credit to, or review or collection of an account of, the
26 consumer;

27 (ii) Intends to use the information for employment purposes;

28 (iii) Intends to use the information in connection with the
29 underwriting of insurance involving the consumer;

1 (iv) Intends to use the information in connection with a
2 determination of the consumer's eligibility for a license or other benefit granted by a
3 governmental instrumentality required by law to consider an applicant's financial
4 responsibility or status; or

5 (v) Otherwise has a legitimate business need for the
6 information in connection with a business transaction involving the consumer.

7 **14-1202.1.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 (2) "ACCOUNT REVIEW" INCLUDES ACTIVITIES RELATED TO
11 ACCOUNT MAINTENANCE, ACCOUNT MONITORING, CREDIT LINE INCREASES,
12 AND ACCOUNT UPGRADES AND ENHANCEMENTS.

13 (3) "SECURITY FREEZE" MEANS A RESTRICTION PLACED ON A
14 CONSUMER REPORT AT THE REQUEST OF THE CONSUMER THAT PROHIBITS A
15 CONSUMER REPORTING AGENCY FROM RELEASING ALL OR ANY PART OF THE
16 CONSUMER'S CONSUMER REPORT OR ANY INFORMATION DERIVED FROM THE
17 CONSUMER'S CONSUMER REPORT WITHOUT THE EXPRESS AUTHORIZATION OF
18 THE CONSUMER.

19 (B) THIS SECTION DOES NOT APPLY TO THE USE OF A CONSUMER
20 REPORT BY:

21 (1) A PERSON, OR A SUBSIDIARY, AFFILIATE, AGENT, OR
22 ASSIGNEE OF THE PERSON, WITH WHICH THE CONSUMER HAS, OR PRIOR TO
23 ASSIGNMENT HAD, AN ACCOUNT, CONTRACT, OR DEBTOR-CREDITOR
24 RELATIONSHIP, FOR THE PURPOSE OF ACCOUNT REVIEW OR COLLECTING THE
25 FINANCIAL OBLIGATION OWING FOR THE ACCOUNT, CONTRACT, OR DEBT;

26 (2) A PERSON, OR A SUBSIDIARY, AFFILIATE, AGENT, OR
27 ASSIGNEE OF THE PERSON, THAT WAS GIVEN ACCESS TO THE CONSUMER
28 REPORT UNDER SUBSECTION (E) OF THIS SECTION FOR THE PURPOSE OF
29 FACILITATING AN EXTENSION OF CREDIT TO THE CONSUMER OR ANOTHER
30 PERMISSIBLE USE;

1 **(3) A PERSON ACTING IN ACCORDANCE WITH A COURT ORDER,**
2 **WARRANT, OR SUBPOENA;**

3 **(4) A UNIT OF STATE OR LOCAL GOVERNMENT THAT**
4 **ADMINISTERS A PROGRAM FOR ESTABLISHING AND ENFORCING CHILD**
5 **SUPPORT OBLIGATIONS;**

6 **(5) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN**
7 **CONNECTION WITH A FRAUD INVESTIGATION CONDUCTED BY THE**
8 **DEPARTMENT;**

9 **(6) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION,**
10 **THE COMPTROLLER, OR ANY OTHER STATE OR LOCAL TAXING AUTHORITY IN**
11 **CONNECTION WITH:**

12 **(I) AN INVESTIGATION CONDUCTED BY THE DEPARTMENT,**
13 **COMPTROLLER, OR TAXING AUTHORITY;**

14 **(II) THE COLLECTION OF DELINQUENT TAXES OR UNPAID**
15 **COURT ORDERS BY THE DEPARTMENT, COMPTROLLER, OR TAXING AUTHORITY;**
16 **OR**

17 **(III) THE PERFORMANCE OF ANY OTHER DUTY PROVIDED**
18 **FOR BY LAW;**

19 **(7) A PERSON FOR THE PURPOSE OF PRESCREENING, AS DEFINED**
20 **BY THE FEDERAL FAIR CREDIT REPORTING ACT;**

21 **(8) A PERSON ADMINISTERING A CREDIT FILE MONITORING**
22 **SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS SUBSCRIBED; OR**

23 **(9) A PERSON FOR THE PURPOSE OF PROVIDING A CONSUMER**
24 **WITH A COPY OF THE CONSUMER'S CONSUMER REPORT ON REQUEST OF THE**
25 **CONSUMER.**

26 **(c) (1) A CONSUMER MAY ELECT TO PLACE A SECURITY FREEZE ON**
27 **ALL OR PART OF THE CONSUMER'S CONSUMER REPORT:**

28 **(I) BY WRITTEN REQUEST SENT BY MAIL;**

- 1 **(II) BY TELEPHONE;**
- 2 **(III) BY ELECTRONIC MAIL IF A SECURE ELECTRONIC MAIL**
3 **CONNECTION IS MADE AVAILABLE BY THE CONSUMER REPORTING AGENCY; OR**
- 4 **(IV) OVER THE INTERNET IF A SECURE WEBSITE IS MADE**
5 **AVAILABLE BY THE CONSUMER REPORTING AGENCY.**
- 6 **(2) A CONSUMER REPORTING AGENCY SHALL REQUIRE A**
7 **CONSUMER TO PROVIDE PROPER IDENTIFYING INFORMATION WHEN**
8 **REQUESTING A SECURITY FREEZE.**
- 9 **(3) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY**
10 **FREEZE ON A CONSUMER'S CONSUMER REPORT WITHIN 5 DAYS AFTER**
11 **RECEIVING A REQUEST FROM A CONSUMER.**
- 12 **(4) WITHIN 3 BUSINESS DAYS AFTER PLACING A SECURITY**
13 **FREEZE ON A CONSUMER'S CONSUMER REPORT, THE CONSUMER REPORTING**
14 **AGENCY SHALL:**
- 15 **(I) SEND A WRITTEN CONFIRMATION OF THE SECURITY**
16 **FREEZE TO THE CONSUMER;**
- 17 **(II) PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL**
18 **IDENTIFICATION NUMBER OR PASSWORD TO BE USED BY THE CONSUMER WHEN**
19 **AUTHORIZING THE RELEASE OF THE CONSUMER'S CONSUMER REPORT TO A**
20 **SPECIFIC PERSON OR FOR A SPECIFIC PERIOD OF TIME; AND**
- 21 **(III) PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT**
22 **OF THE PROCEDURES FOR REQUESTING THE CONSUMER REPORTING AGENCY**
23 **TO REMOVE OR TEMPORARILY LIFT A SECURITY FREEZE.**
- 24 **(D) (1) WHILE A SECURITY FREEZE IS IN PLACE, A CONSUMER**
25 **REPORTING AGENCY MAY NOT PROVIDE ANY INFORMATION IN A CONSUMER'S**
26 **CONSUMER REPORT WITHOUT THE EXPRESS PRIOR AUTHORIZATION OF THE**
27 **CONSUMER.**

1 **2. THE UNIQUE PERSONAL IDENTIFICATION**
2 **NUMBER OR PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY**
3 **UNDER SUBSECTION (C)(4)(II) OF THIS SECTION; AND**

4 **3. THE PROPER INFORMATION REGARDING THE**
5 **PERSON THAT IS TO RECEIVE THE CONSUMER REPORT OR THE TIME PERIOD**
6 **DURING WHICH THE CONSUMER REPORT IS TO BE AVAILABLE TO USERS OF THE**
7 **CONSUMER REPORT.**

8 **(2) A CONSUMER REPORTING AGENCY SHALL COMPLY WITH A**
9 **REQUEST MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 3 DAYS**
10 **AFTER RECEIVING THE REQUEST.**

11 **(F) ON OR BEFORE OCTOBER 1, 2009, A CONSUMER REPORTING**
12 **AGENCY SHALL DEVELOP PROCEDURES INVOLVING THE USE OF TELEPHONE OR**
13 **FACSIMILE, OR, ON CONSENT OF THE CONSUMER IN THE MANNER REQUIRED BY**
14 **THE FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL**
15 **COMMERCE ACT FOR LEGALLY REQUIRED NOTICES, THE INTERNET,**
16 **ELECTRONIC MAIL, OR OTHER ELECTRONIC MEDIA, TO RECEIVE AND PROCESS,**
17 **IN AN EXPEDITED MANNER, A REQUEST FROM A CONSUMER TO PLACE,**
18 **TEMPORARILY LIFT, OR REMOVE A SECURITY FREEZE ON THE CONSUMER'S**
19 **CONSUMER REPORT.**

20 **(G) IF, IN CONNECTION WITH AN APPLICATION FOR CREDIT OR FOR ANY**
21 **OTHER USE, A PERSON REQUESTS ACCESS TO A CONSUMER'S CONSUMER**
22 **REPORT WHILE A SECURITY FREEZE IS IN PLACE AND THE CONSUMER DOES NOT**
23 **AUTHORIZE ACCESS TO THE CONSUMER'S CONSUMER REPORT, THE PERSON**
24 **MAY TREAT THE APPLICATION AS INCOMPLETE.**

25 **(H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
26 **SUBSECTION, A CONSUMER REPORTING AGENCY MAY REMOVE OR**
27 **TEMPORARILY LIFT A SECURITY FREEZE PLACED ON A CONSUMER'S CONSUMER**
28 **REPORT ONLY ON REQUEST OF THE CONSUMER MADE UNDER SUBSECTION (E)**
29 **OR (I) OF THIS SECTION.**

30 **(2) (I) A CONSUMER REPORTING AGENCY MAY REMOVE A**
31 **SECURITY FREEZE PLACED ON A CONSUMER'S CONSUMER REPORT IF**
32 **PLACEMENT OF THE SECURITY FREEZE WAS BASED ON A MATERIAL**
33 **MISREPRESENTATION OF FACT BY THE CONSUMER.**

1 **(II) IF A CONSUMER REPORTING AGENCY INTENDS TO**
2 **REMOVE A SECURITY FREEZE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH,**
3 **THE CONSUMER REPORTING AGENCY SHALL NOTIFY THE CONSUMER IN**
4 **WRITING OF ITS INTENT AT LEAST 5 BUSINESS DAYS BEFORE REMOVING THE**
5 **SECURITY FREEZE.**

6 **(I) (1) SUBJECT TO SUBSECTION (G)(2) OF THIS SECTION, A**
7 **SECURITY FREEZE SHALL REMAIN IN PLACE UNTIL THE CONSUMER REQUESTS**
8 **THAT THE SECURITY FREEZE BE REMOVED.**

9 **(2) A CONSUMER REQUESTING THAT A SECURITY FREEZE BE**
10 **REMOVED SHALL PROVIDE:**

11 **(I) PROPER IDENTIFYING INFORMATION; AND**

12 **(II) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR**
13 **PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY UNDER**
14 **SUBSECTION (C)(4)(II) OF THIS SECTION.**

15 **(3) A CONSUMER REPORTING AGENCY SHALL REMOVE A**
16 **SECURITY FREEZE WITHIN 3 DAYS AFTER RECEIVING A REQUEST FOR REMOVAL.**

17 **(J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION, A CONSUMER MAY NOT BE CHARGED FOR ANY SERVICE RELATING**
19 **TO A SECURITY FREEZE.**

20 **(2) A CONSUMER REPORTING AGENCY MAY CHARGE A**
21 **REASONABLE FEE, NOT EXCEEDING \$5, IF A CONSUMER FAILS TO RETAIN THE**
22 **ORIGINAL UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD**
23 **PROVIDED TO THE CONSUMER BY THE CONSUMER REPORTING AGENCY UNDER**
24 **SUBSECTION (C)(4)(II) OF THIS SECTION, AND THE CONSUMER REPORTING**
25 **AGENCY MUST REISSUE THE SAME OR A NEW UNIQUE PERSONAL**
26 **IDENTIFICATION NUMBER OR PASSWORD.**

27 **(K) AT ANY TIME THAT A CONSUMER IS ENTITLED TO RECEIVE A**
28 **SUMMARY OF RIGHTS UNDER § 609 OF THE FEDERAL FAIR CREDIT REPORTING**
29 **ACT OR § 14-1206 OF THIS SUBTITLE, THE FOLLOWING NOTICE SHALL BE**
30 **INCLUDED:**

“NOTICE

1
2 **YOU HAVE A RIGHT, UNDER § 14-1202.1 OF THE COMMERCIAL LAW**
3 **ARTICLE OF THE ANNOTATED CODE OF MARYLAND, TO PLACE A SECURITY**
4 **FREEZE ON YOUR CREDIT REPORT AT NO CHARGE TO YOU. THE SECURITY**
5 **FREEZE WILL PROHIBIT A CONSUMER REPORTING AGENCY FROM RELEASING**
6 **ANY INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS**
7 **AUTHORIZATION. THE PURPOSE OF A SECURITY FREEZE IS TO PREVENT**
8 **CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN YOUR NAME**
9 **WITHOUT YOUR CONSENT.**

10 **YOU MAY ELECT TO HAVE A CONSUMER REPORTING AGENCY PLACE A**
11 **SECURITY FREEZE ON YOUR CREDIT REPORT BY WRITTEN REQUEST SENT BY**
12 **MAIL, BY TELEPHONE, BY ELECTRONIC MAIL IF THE CONSUMER REPORTING**
13 **AGENCY HAS A SECURE ELECTRONIC MAIL CONNECTION, OR OVER THE**
14 **INTERNET IF THE CONSUMER REPORTING AGENCY HAS A SECURE WEBSITE.**
15 **THE CONSUMER REPORTING AGENCY MUST PLACE A SECURITY FREEZE ON**
16 **YOUR CREDIT REPORT WITHIN 5 DAYS AFTER YOUR REQUEST IS RECEIVED.**
17 **WITHIN 3 BUSINESS DAYS AFTER A SECURITY FREEZE IS PLACED ON YOUR**
18 **CREDIT REPORT, YOU WILL BE PROVIDED WITH A UNIQUE PERSONAL**
19 **IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU WANT TO REMOVE THE**
20 **SECURITY FREEZE OR TEMPORARILY LIFT THE SECURITY FREEZE TO RELEASE**
21 **YOUR CREDIT REPORT TO A SPECIFIC PERSON OR FOR A SPECIFIC PERIOD OF**
22 **TIME. YOU ALSO WILL RECEIVE INFORMATION ON THE PROCEDURES FOR**
23 **REMOVING OR TEMPORARILY LIFTING A SECURITY FREEZE.**

24 **IF YOU WANT TO TEMPORARILY LIFT THE SECURITY FREEZE ON YOUR**
25 **CREDIT REPORT, YOU MUST CONTACT THE CONSUMER REPORTING AGENCY AND**
26 **PROVIDE ALL OF THE FOLLOWING:**

27 **(1) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR**
28 **PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY;**

29 **(2) PROPER IDENTIFYING INFORMATION TO VERIFY YOUR**
30 **IDENTITY; AND**

1 **(3) THE PROPER INFORMATION REGARDING THE PERSON WHO IS**
2 **TO RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE**
3 **CREDIT REPORT IS TO BE AVAILABLE TO USERS OF THE CREDIT REPORT.**

4 **A CONSUMER REPORTING AGENCY MUST COMPLY WITH A REQUEST TO**
5 **TEMPORARILY LIFT A SECURITY FREEZE ON A CREDIT REPORT WITHIN 3 DAYS**
6 **AFTER THE REQUEST IS RECEIVED.**

7 **IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD BE AWARE THAT**
8 **THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR**
9 **OWN APPLICATIONS FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A**
10 **SECURITY FREEZE, EITHER COMPLETELY IF YOU ARE SEEKING CREDIT FROM A**
11 **NUMBER OF SOURCES, OR JUST FOR A SPECIFIC CREDITOR IF YOU ARE**
12 **APPLYING ONLY TO THAT CREDITOR, A FEW DAYS BEFORE ACTUALLY APPLYING**
13 **FOR NEW CREDIT.**

14 **A SECURITY FREEZE DOES NOT APPLY IF YOU HAVE AN EXISTING**
15 **ACCOUNT RELATIONSHIP AND A COPY OF YOUR CREDIT REPORT IS REQUESTED**
16 **BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN**
17 **TYPES OF ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL, OR SIMILAR**
18 **ACTIVITIES.**

19 **YOU HAVE A RIGHT TO BRING A CIVIL ACTION AGAINST ANY CONSUMER**
20 **REPORTING AGENCY OR USER OF YOUR CREDIT REPORT WHO VIOLATES YOUR**
21 **RIGHTS UNDER MARYLAND'S CREDIT REPORTING LAWS."**

22 **(L) IF A CONSUMER REPORTING AGENCY VIOLATES A SECURITY FREEZE**
23 **BY RELEASING A CONSUMER'S CONSUMER REPORT OR ANY INFORMATION IN A**
24 **CONSUMER'S CONSUMER REPORT, THE CONSUMER REPORTING AGENCY,**
25 **WITHIN 5 BUSINESS DAYS AFTER THE RELEASE, SHALL NOTIFY THE CONSUMER**
26 **OF:**

27 **(1) THE SPECIFIC INFORMATION RELEASED; AND**

28 **(2) THE NAME AND ADDRESS OF THE RECIPIENT OF THE**
29 **INFORMATION RELEASED.**

30 **(M) (1) IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE**
31 **AVAILABLE UNDER THIS SUBTITLE, A CONSUMER WHO IS AFFECTED BY A**

1 VIOLATION OF THIS SECTION MAY BRING AN ACTION AGAINST THE PERSON
2 THAT COMMITTED THE VIOLATION.

3 (2) IN AN ACTION BROUGHT UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION, A CONSUMER MAY RECOVER:

5 (I) DAMAGES IN THE AMOUNT OF THE GREATER OF:

6 1. \$500 FOR EACH VIOLATION; OR

7 2. ACTUAL DAMAGES SUSTAINED AS A RESULT OF
8 THE VIOLATION; AND

9 (II) REASONABLE ATTORNEY'S FEES.

10 (3) FOR PURPOSES OF IMPOSING PENALTIES UNDER PARAGRAPH
11 (2) OF THIS SUBSECTION, EACH INSTANCE OF A VIOLATION OF THIS SECTION IS
12 A SEPARATE VIOLATION.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2007.