

SENATE BILL 270

I3, I2, P1

(7lr0341)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senators Lee, Benson, Kagan, Kelley, Manno, Pinsky, Smith, and Zucker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Credit Report Security Freezes – Prohibition on Fees**
3 **and Required Notices**

4 FOR the purpose of prohibiting a consumer reporting agency from charging a consumer a
5 fee for placing a security freeze if the consumer has not previously requested the
6 placement of a security freeze from the consumer reporting agency; ~~temporarily~~
7 ~~lifting a security freeze a certain number of times, or removing a security freeze if~~
8 ~~the consumer has received a certain notice of a breach of the security of a system~~
9 ~~under certain provisions of State law or from or on behalf of a federal agency and~~
10 ~~provides a copy of the notice to the consumer reporting agency;~~ altering the contents
11 of a certain notice that must be included with a certain summary of rights provided
12 to a consumer; ~~requiring that certain notices relating to the breach of the security of~~
13 ~~a system include certain information about limitations on the fees that may be~~
14 ~~charged by a consumer reporting agency for placing, temporarily lifting, or removing~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 ~~a security freeze~~, and generally relating to fees charged by consumer reporting
2 agencies for services relating to a security freeze and notices about the fees.

3 BY repealing and reenacting, without amendments,
4 Article – Commercial Law
5 Section 14–1212.1(a)(1) and (3) ~~and 14–3504(a) and (b)(1) and (2)~~
6 Annotated Code of Maryland
7 (2013 Replacement Volume and 2016 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Commercial Law
10 Section 14–1212.1(i) and (j) ~~and 14–3504(g)~~
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2016 Supplement)

13 ~~BY repealing and reenacting, without amendments,~~
14 ~~Article – State Government~~
15 ~~Section 10–1305(a) and (b)(1) and (2)~~
16 ~~Annotated Code of Maryland~~
17 ~~(2014 Replacement Volume and 2016 Supplement)~~

18 ~~BY repealing and reenacting, with amendments,~~
19 ~~Article – State Government~~
20 ~~Section 10–1305(g)~~
21 ~~Annotated Code of Maryland~~
22 ~~(2014 Replacement Volume and 2016 Supplement)~~

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

25 **Article – Commercial Law**

26 14–1212.1.

27 (a) (1) In this section the following words have the meanings indicated.

28 (3) “Security freeze” means a restriction placed on a consumer’s consumer
29 report at the request of the consumer that prohibits a consumer reporting agency from
30 releasing the consumer’s consumer report or any information derived from the consumer’s
31 consumer report without the express authorization of the consumer.

32 (i) (1) Except as provided in paragraph (2) of this subsection, a consumer may
33 not be charged for any service relating to a security freeze.

34 (2) A consumer reporting agency may charge a reasonable fee, not
35 exceeding \$5, for each placement, temporary lift, or removal of a security freeze.

(3) Notwithstanding paragraph (2) of this subsection, a consumer reporting agency may not charge any fee under this section to a consumer who:

(i) 1. Has obtained a report of alleged identity fraud against the consumer under § 8–304 of the Criminal Law Article or an identity theft passport under § 8–305 of the Criminal Law Article; and

~~(ii)~~ 2. Provides a copy of the report or passport to the consumer reporting agency; OR

(II) REQUESTS THE PLACEMENT OF A SECURITY FREEZE IF THE CONSUMER HAS NOT PREVIOUSLY REQUESTED THE PLACEMENT OF A SECURITY FREEZE FROM THE CONSUMER REPORTING AGENCY.

~~(4) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION TO A CONSUMER FOR A PLACEMENT OR REMOVAL OF A SECURITY FREEZE OR FOR THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF THE CONSUMER:~~

~~(i) HAS RECEIVED NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM UNDER § 14-3504 OF THIS TITLE OR § 10-1305 OF THE STATE GOVERNMENT ARTICLE OR FROM OR ON BEHALF OF A FEDERAL GOVERNMENT AGENCY; AND~~

~~(ii) PROVIDES A COPY OF THE NOTICE TO THE CONSUMER REPORTING AGENCY.~~

(j) At any time that a consumer is entitled to receive a summary of rights under § 609 of the federal Fair Credit Reporting Act or § 14–1206 of this subtitle, the following notice shall be included:

“NOTICE

You have a right, under § 14–1212.1 of the Commercial Law Article of the Annotated Code of Maryland, to place a security freeze on your credit report. The security freeze will prohibit a consumer reporting agency from releasing your credit report or any information derived from your credit report without your express authorization. The purpose of a security freeze is to prevent credit, loans, and services from being approved in your name without your consent.

You may elect to have a consumer reporting agency place a security freeze on your credit report by written request sent by certified mail or by electronic mail or the Internet if the consumer reporting agency provides a secure electronic connection. The consumer reporting agency must place a security freeze on your credit report within 3 business days

1 after your request is received. Within 5 business days after a security freeze is placed on
2 your credit report, you will be provided with a unique personal identification number or
3 password to use if you want to remove the security freeze or temporarily lift the security
4 freeze to release your credit report to a specific person or for a specific period of time. You
5 also will receive information on the procedures for removing or temporarily lifting a
6 security freeze.

7 If you want to temporarily lift the security freeze on your credit report, you must
8 contact the consumer reporting agency and provide all of the following:

9 (1) The unique personal identification number or password provided by the
10 consumer reporting agency;

11 (2) The proper identifying information to verify your identity; and

12 (3) The proper information regarding the person who is to receive the credit
13 report or the period of time for which the credit report is to be available to users of the
14 credit report.

15 A consumer reporting agency must comply with a request to temporarily lift a
16 security freeze on a credit report within 3 business days after the request is received, or
17 within 15 minutes for certain requests. A consumer reporting agency must comply with a
18 request to remove a security freeze on a credit report within 3 business days after the
19 request is received.

20 If you are actively seeking credit, you should be aware that the procedures involved
21 in lifting a security freeze may slow your own applications for credit. You should plan ahead
22 and lift a security freeze, either completely if you are seeking credit from a number of
23 sources, or just for a specific creditor if you are applying only to that creditor, a few days
24 before actually applying for new credit.

25 A consumer reporting agency may charge a reasonable fee not exceeding \$5 for each
26 placement, temporary lift, or removal of a security freeze. However, a consumer reporting
27 agency may not charge any fee to a consumer who, at the time of a request to place,
28 temporarily lift, or remove a security freeze, presents to the consumer reporting agency a
29 police report of alleged identity fraud against the consumer or an identity theft passport. **A**
30 **CONSUMER REPORTING AGENCY ALSO MAY NOT CHARGE ANY FEE TO A CONSUMER**
31 **FOR PLACING OR REMOVING THE FIRST PLACEMENT OF A SECURITY FREEZE OR FOR**
32 **THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF,**
33 **AT THE TIME OF A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A SECURITY**
34 **FREEZE, THE CONSUMER PRESENTS TO THE WITH THE CONSUMER REPORTING**
35 **AGENCY A COPY OF A NOTICE THAT THERE HAS BEEN A BREACH OF THE SECURITY**
36 **OF A SYSTEM THAT MAY COMPROMISE THE SECURITY, CONFIDENTIALITY, OR**
37 **INTEGRITY OF THE CONSUMER'S PERSONAL INFORMATION.**

1 A security freeze does not apply if you have an existing account relationship and a
2 copy of your credit report is requested by your existing creditor or its agents or affiliates for
3 certain types of account review, collection, fraud control, or similar activities.”

4 ~~14-3504.~~

5 (a) ~~In this section:~~

6 (1) ~~“Breach of the security of a system” means the unauthorized acquisition~~
7 ~~of computerized data that compromises the security, confidentiality, or integrity of the~~
8 ~~personal information maintained by a business; and~~

9 (2) ~~“Breach of the security of a system” does not include the good faith~~
10 ~~acquisition of personal information by an employee or agent of a business for the purposes~~
11 ~~of the business, provided that the personal information is not used or subject to further~~
12 ~~unauthorized disclosure.~~

13 (b) (1) ~~A business that owns or licenses computerized data that includes~~
14 ~~personal information of an individual residing in the State, when it discovers or is notified~~
15 ~~of a breach of the security of a system, shall conduct in good faith a reasonable and prompt~~
16 ~~investigation to determine the likelihood that personal information of the individual has~~
17 ~~been or will be misused as a result of the breach.~~

18 (2) ~~If, after the investigation is concluded, the business determines that~~
19 ~~misuse of the individual’s personal information has occurred or is reasonably likely to occur~~
20 ~~as a result of a breach of the security of a system, the business shall notify the individual~~
21 ~~of the breach.~~

22 (g) ~~The notification required under subsection (b) of this section shall include:~~

23 (1) ~~To the extent possible, a description of the categories of information~~
24 ~~that were, or are reasonably believed to have been, acquired by an unauthorized person,~~
25 ~~including which of the elements of personal information were, or are reasonably believed~~
26 ~~to have been, acquired;~~

27 (2) ~~Contact information for the business making the notification, including~~
28 ~~the business’ address, telephone number, and toll-free telephone number if one is~~
29 ~~maintained;~~

30 (3) ~~The toll-free telephone numbers and addresses for the major consumer~~
31 ~~reporting agencies; [and]~~

32 (4) (i) ~~The toll-free telephone numbers, addresses, and Web site~~
33 ~~addresses for:~~

34 ~~1. The Federal Trade Commission; and~~

~~2. The Office of the Attorney General; and~~

~~(ii) A statement that an individual can obtain information from these sources about steps the individual can take to avoid identity theft; AND~~

~~(5) A NOTICE THAT A CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE TO A CONSUMER FOR PLACING OR REMOVING A SECURITY FREEZE OR FOR THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF, AT THE TIME OF A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A SECURITY FREEZE, THE CONSUMER PRESENTS TO THE CONSUMER REPORTING AGENCY A COPY OF THIS NOTIFICATION.~~

~~Article State Government~~

~~10-1305.~~

~~(a) (1) In this section, "breach of the security of a system" means the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of the personal information maintained by a unit.~~

~~(2) "Breach of the security of a system" does not include the good faith acquisition of personal information by an employee or agent of a unit for the purposes of the unit, provided that the personal information is not used or subject to further unauthorized disclosure.~~

~~(b) (1) If a unit that collects computerized data that includes personal information of an individual discovers or is notified of a breach of the security of a system, the unit shall conduct in good faith a reasonable and prompt investigation to determine whether the unauthorized acquisition of personal information of the individual has resulted in or is likely to result in the misuse of the information.~~

~~(2) (i) Except as provided in subparagraph (ii) of this paragraph, if after the investigation is concluded, the unit determines that the misuse of the individual's personal information has occurred or is likely to occur, the unit or the nonaffiliated third party, if authorized under a written contract or agreement with the unit, shall notify the individual of the breach.~~

~~(ii) Unless the unit or nonaffiliated third party knows that the encryption key has been broken, a unit or the nonaffiliated third party is not required to notify an individual under subparagraph (i) of this paragraph if:~~

~~1. the personal information of the individual was secured by encryption or redacted; and~~

~~2. the encryption key has not been compromised or disclosed.~~

1 ~~(g) The notification required under subsection (b) of this section shall include:~~

2 ~~(1) to the extent possible, a description of the categories of information that~~
3 ~~were, or are reasonably believed to have been, acquired by an unauthorized person,~~
4 ~~including which of the elements of personal information were, or are reasonably believed~~
5 ~~to have been, acquired;~~

6 ~~(2) contact information for the unit making the notification, including the~~
7 ~~unit's address, telephone number, and toll-free telephone number if one is maintained;~~

8 ~~(3) the toll-free telephone numbers and addresses for the major consumer~~
9 ~~reporting agencies; [and]~~

10 ~~(4) (i) the toll-free telephone numbers, addresses, and Web site~~
11 ~~addresses for:~~

12 ~~1. the Federal Trade Commission; and~~

13 ~~2. the Office of the Attorney General; and~~

14 ~~(ii) a statement that an individual can obtain information from these~~
15 ~~sources about steps the individual can take to avoid identity theft; AND~~

16 ~~(5) A NOTICE THAT A CONSUMER REPORTING AGENCY MAY NOT~~
17 ~~CHARGE ANY FEE TO A CONSUMER FOR PLACING OR REMOVING A SECURITY FREEZE~~
18 ~~OR FOR THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR~~
19 ~~YEAR IF, AT THE TIME OF A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A~~
20 ~~SECURITY FREEZE, THE CONSUMER PRESENTS TO THE CONSUMER REPORTING~~
21 ~~AGENCY A COPY OF THIS NOTIFICATION.~~

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2017.

Approved:

_____ Governor.

_____ President of the Senate.

_____ Speaker of the House of Delegates.