

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 1569
Economic Matters

(Delegate Quinter)

Consumer Protection - Consumer Reporting Agencies - Credit Reports - Security
Freezes

This bill authorizes a consumer, with specified exceptions, to elect to place a security freeze on the consumer's credit report by written request sent by certified mail, telephone, or electronic mail under specified circumstances.

Fiscal Summary

State Effect: Assuming the number of complaints received is small, any increase in workload could be handled by the existing resources of the Commissioner of Financial Regulation. However, additional resources could be required if the commissioner receives a large number of complaints.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: When a consumer elects to place a security freeze, a consumer reporting agency must require a consumer to provide proper identification. If the consumer elects to place the freeze by telephone or in writing, the consumer reporting agency must place the freeze within five business days after receiving the request. If the consumer elects to place the freeze by electronic mail, the consumer reporting agency must place the freeze within three days after receiving the request.

Within five days after placing a security freeze, the consumer reporting agency must: (1) send written confirmation to the consumer; (2) provide the consumer with a unique personal identification number or password to be used when authorizing the release of the report; and (3) provide the consumer with a written statement of the procedures for requesting the removal or temporary lifting of the freeze.

While the freeze is in place, a consumer's credit report and any information in it may not be released without the consumer's express prior authorization. A consumer reporting agency may advise a person that a security freeze is in effect. However, the agency may not state or imply that a security freeze reflects a negative credit score, credit history, or credit rating. If a consumer wants to allow access to his or her credit report while the security freeze is in place, the consumer must follow specified procedures to notify the consumer reporting agency. The consumer reporting agency must comply with the request within three business days after receipt and may develop procedures to receive and process a request in an expedited manner.

If a person requests access to a consumer's credit report while a security freeze is in place and is denied access, the person may treat the application as incomplete.

Generally, a consumer reporting agency may remove or temporarily lift a security freeze only on the consumer's request, and the freeze must remain in place until the consumer requests that it be removed. However, the agency may remove the freeze if the placement was based on a material misrepresentation of fact by the consumer. If an agency intends to remove a freeze because of a material misrepresentation, it must notify the consumer in writing at least five business days before removing the freeze. A consumer requesting that a freeze be removed must provide proper identification and the consumer's personal identification number or password given by the consumer reporting agency at the time of the freeze. The freeze must be removed within three days after receiving the request.

A consumer reporting agency may charge a fee of up to \$10 for initially placing a security freeze and \$8 for each request to temporarily lift it.

When a consumer is entitled to receive a summary of rights under the federal Fair Credit Reporting Act (FCRA) or Maryland law governing consumer reporting agencies, the consumer reporting agency must include with the summary a notice containing specified information about placing a security freeze under the bill.

If a consumer reporting agency violates a security freeze, the agency must notify the consumer, within five business days after the release, of the information released and the name and address of the person who received it. A consumer reporting agency that

knowingly violates a security freeze is liable to the consumer for: (1) a penalty of up to \$1,000 for each violation; (2) actual damages sustained by the consumer as a result of the violation; and (3) reasonable expenses, court costs, investigative costs, and attorney's fees.

The bill does not apply to the use of a consumer's credit report by: (1) a person, or a subsidiary, affiliate, agent, or assignee of the person, with which the consumer has or had an account, contract, or debtor-creditor relationship for specified purposes; (2) a subsidiary, affiliate, agent, or perspective assignee of a person that was given access to the credit report for the purpose of facilitating an extension of credit to the consumer or another permissible use; (3) a person acting in accordance with a court order, warrant, or subpoena; (4) a unit of State or local government for specified purposes, including enforcement of child support and investigations relating to the collection of taxes; (5) a person administering a credit file monitoring subscription service to which the consumer has subscribed; or (6) a person providing the consumer, at the consumer's request, with a copy of his or her credit report on request.

Current Law: Under FCRA, a consumer reporting agency must, upon request, disclose to the consumer: (1) all the information in the consumer's file except that information concerning credit scores or any other risk scores or predictors; (2) the source of the information; and (3) the identification of each person that consumer's report during specified periods. When making the disclosure, the consumer reporting agency must include: (1) a written summary of the consumer's rights under FCRA and the federal Fair and Accurate Credit Transactions Act (FACT Act); and (2) in the case of a nationwide consumer reporting agency, a toll-free telephone contact number.

Under Maryland law, a consumer reporting agency must, upon request and proper identification, provide the consumer with: (1) an exact copy of any file on that consumer; (2) a written explanation of codes or trade language used; (3) a description of the consumer's rights under the Maryland laws governing consumer reports and consumer reporting agencies; and (4) the name, address, and telephone number of the Commissioner of Financial Regulation.

Under the FACT Act, which amends various sections of FCRA, a consumer reporting agency must block the reporting of any information in a consumer's file that the consumer identifies as information resulting from an alleged identity theft no later than four business days after the date the agency received specified information from the consumer.

After receiving the request, the consumer reporting agency must promptly notify the person who furnished the information that: (1) the information may be a result of identity

theft; (2) an identity theft report has been filed; (3) a block has been requested; and (4) the block's effective date.

A consumer reporting agency may decline to block information or rescind a block of information if the agency reasonably determines that: (1) the information was blocked in error or the block was requested in error; (2) the block or request was based on a material misrepresentation of fact by the consumer; or (3) the consumer obtained possession of goods, services, or money as a result of a blocked transaction. If a block is declined or rescinded, the agency must notify the consumer within five business days after the information is reinserted into the consumer's report.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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