

SENATE BILL 4

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SB 487/06 – FIN

(PRE-FILED)

71r0325

By: **Senator Frosh**
Requested: August 7, 2006
Introduced and read first time: January 10, 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; prohibiting
18 a consumer reporting agency from charging a consumer for any service relating
19 to a security freeze; providing a certain exception; requiring a consumer
20 reporting agency to give certain notices to a consumer at certain times;
21 authorizing a consumer who is affected by a violation of certain provisions of
22 this Act to bring a certain action; establishing certain penalties; providing for
23 the application of this Act; defining certain terms; making a conforming change;
24 and generally relating to consumer reporting agencies and security freezes on
25 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 THAT WAS GIVEN ACCESS TO THE CONSUMER
27 REPORT UNDER SUBSECTION (E) OF THIS SECTION FOR THE PURPOSE OF
28 FACILITATING AN EXTENSION OF CREDIT TO THE CONSUMER OR ANOTHER
29 PERMISSIBLE USE;

30 (3) A PERSON ACTING IN ACCORDANCE WITH A COURT ORDER,
31 WARRANT, OR SUBPOENA;

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

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

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

10 (I) AN INVESTIGATION CONDUCTED BY THE DEPARTMENT,
11 COMPTROLLER, OR TAXING AUTHORITY;

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

15 (III) THE PERFORMANCE OF ANY OTHER DUTY PROVIDED
16 FOR BY LAW;

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

19 (8) A PERSON ADMINISTERING A CREDIT FILE MONITORING
20 SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS SUBSCRIBED; OR

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

24 (c) (1) A CONSUMER MAY ELECT TO PLACE A SECURITY FREEZE ON
25 ALL OR PART OF THE CONSUMER'S CONSUMER REPORT BY:

26 (I) WRITTEN REQUEST SENT BY CERTIFIED MAIL;

27 (II) TELEPHONE; OR

1 (III) ELECTRONIC MAIL IF A SECURE ELECTRONIC MAIL
2 CONNECTION IS MADE AVAILABLE BY THE CONSUMER REPORTING AGENCY.

3 (2) A CONSUMER REPORTING AGENCY SHALL REQUIRE A
4 CONSUMER TO PROVIDE PROPER IDENTIFICATION WHEN REQUESTING A
5 SECURITY FREEZE.

6 (3) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY
7 FREEZE ON A CONSUMER'S CONSUMER REPORT WITHIN 5 DAYS AFTER
8 RECEIVING A REQUEST FROM A CONSUMER.

9 (4) WITHIN 3 BUSINESS DAYS AFTER PLACING A SECURITY
10 FREEZE ON A CONSUMER'S CONSUMER REPORT, THE CONSUMER REPORTING
11 AGENCY SHALL:

12 (I) SEND A WRITTEN CONFIRMATION OF THE SECURITY
13 FREEZE TO THE CONSUMER;

14 (II) PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL
15 IDENTIFICATION NUMBER OR PASSWORD TO BE USED BY THE CONSUMER WHEN
16 AUTHORIZING THE RELEASE OF THE CONSUMER'S CONSUMER REPORT TO A
17 SPECIFIC PERSON OR FOR A SPECIFIC PERIOD OF TIME; AND

18 (III) PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT
19 OF THE PROCEDURES FOR REQUESTING THE CONSUMER REPORTING AGENCY
20 TO REMOVE OR TEMPORARILY LIFT A SECURITY FREEZE.

21 (D) (1) WHILE A SECURITY FREEZE IS IN PLACE, A CONSUMER
22 REPORTING AGENCY MAY NOT PROVIDE ANY INFORMATION IN A CONSUMER'S
23 CONSUMER REPORT WITHOUT THE EXPRESS PRIOR AUTHORIZATION OF THE
24 CONSUMER.

25 (2) A CONSUMER REPORTING AGENCY MAY ADVISE A PERSON
26 THAT A SECURITY FREEZE IS IN EFFECT WITH RESPECT TO A CONSUMER'S
27 CONSUMER REPORT.

28 (3) A CONSUMER REPORTING AGENCY MAY NOT STATE OR IMPLY
29 TO ANY PERSON THAT A SECURITY FREEZE ON A CONSUMER'S CONSUMER

1 REPORT REFLECTS A NEGATIVE CREDIT SCORE, CREDIT HISTORY, OR CREDIT
2 RATING.

3 (4) (I) IF ANY PERSON REQUESTS ACCESS TO A CONSUMER'S
4 CONSUMER REPORT WHILE A SECURITY FREEZE IS IN PLACE FOR A PURPOSE
5 OTHER THAN ACCOUNT REVIEW, THE CONSUMER REPORTING AGENCY SHALL
6 NOTIFY THE CONSUMER THAT AN ATTEMPT HAS BEEN MADE TO ACCESS THE
7 CONSUMER'S CONSUMER REPORT.

8 (II) THE NOTICE SHALL STATE THE IDENTITY OF THE
9 PERSON REQUESTING ACCESS TO THE CONSUMER'S CONSUMER REPORT AND
10 THE PURPOSE OF THE REQUEST.

11 (E) (1) IF A CONSUMER WANTS TO ALLOW THE CONSUMER'S
12 CONSUMER REPORT TO BE ACCESSED BY A SPECIFIC PERSON OR FOR A
13 SPECIFIC PERIOD OF TIME WHILE A SECURITY FREEZE IS IN PLACE, THE
14 CONSUMER SHALL:

15 (I) CONTACT THE CONSUMER REPORTING AGENCY BY
16 CERTIFIED MAIL, TELEPHONE, OR ELECTRONIC MAIL IF A SECURE ELECTRONIC
17 MAIL CONNECTION IS MADE AVAILABLE TO THE CONSUMER BY THE CONSUMER
18 REPORTING AGENCY;

19 (II) REQUEST THAT THE SECURITY FREEZE BE
20 TEMPORARILY LIFTED; AND

21 (III) PROVIDE THE FOLLOWING TO THE CONSUMER
22 REPORTING AGENCY:

23 1. PROPER IDENTIFICATION;

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

27 3. THE PROPER INFORMATION REGARDING THE
28 PERSON THAT IS TO RECEIVE THE CONSUMER REPORT OR THE TIME PERIOD
29 DURING WHICH THE CONSUMER REPORT IS TO BE AVAILABLE TO USERS OF THE
30 CONSUMER REPORT.

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

4 **(3) A CONSUMER REPORTING AGENCY SHALL DEVELOP**
5 **PROCEDURES INVOLVING THE USE OF TELEPHONE OR FACSIMILE, OR, ON**
6 **CONSENT OF THE CONSUMER IN THE MANNER REQUIRED BY THE FEDERAL**
7 **ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT FOR**
8 **LEGALLY REQUIRED NOTICES, THE INTERNET, ELECTRONIC MAIL, OR OTHER**
9 **ELECTRONIC MEDIA, TO RECEIVE AND PROCESS, IN AN EXPEDITED MANNER, A**
10 **REQUEST FROM A CONSUMER TO TEMPORARILY LIFT OR REMOVE A SECURITY**
11 **FREEZE ON THE CONSUMER'S CONSUMER REPORT.**

12 **(F) IF, IN CONNECTION WITH AN APPLICATION FOR CREDIT OR FOR ANY**
13 **OTHER USE, A PERSON REQUESTS ACCESS TO A CONSUMER'S CONSUMER**
14 **REPORT WHILE A SECURITY FREEZE IS IN PLACE AND THE CONSUMER DOES NOT**
15 **AUTHORIZE ACCESS TO THE CONSUMER'S CONSUMER REPORT, THE PERSON**
16 **MAY TREAT THE APPLICATION AS INCOMPLETE.**

17 **(G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
18 **SUBSECTION, A CONSUMER REPORTING AGENCY MAY REMOVE OR**
19 **TEMPORARILY LIFT A SECURITY FREEZE PLACED ON A CONSUMER'S CONSUMER**
20 **REPORT ONLY ON REQUEST OF THE CONSUMER MADE UNDER SUBSECTION (E)**
21 **OR (H) OF THIS SECTION.**

22 **(2) (I) A CONSUMER REPORTING AGENCY MAY REMOVE A**
23 **SECURITY FREEZE PLACED ON A CONSUMER'S CONSUMER REPORT IF**
24 **PLACEMENT OF THE SECURITY FREEZE WAS BASED ON A MATERIAL**
25 **MISREPRESENTATION OF FACT BY THE CONSUMER.**

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

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

4 **(2) A CONSUMER REQUESTING THAT A SECURITY FREEZE BE**
5 **REMOVED SHALL PROVIDE:**

6 **(I) PROPER IDENTIFICATION; AND**

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

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

12 **(I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
13 **SUBSECTION, A CONSUMER MAY NOT BE CHARGED FOR ANY SERVICE RELATING**
14 **TO A SECURITY FREEZE.**

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

22 **(J) AT ANY TIME THAT A CONSUMER IS ENTITLED TO RECEIVE A**
23 **SUMMARY OF RIGHTS UNDER § 609 OF THE FEDERAL FAIR CREDIT REPORTING**
24 **ACT OR § 14-206 OF THIS SUBTITLE, THE FOLLOWING NOTICE SHALL BE**
25 **INCLUDED:**

26 **“NOTICE**

27 **YOU HAVE A RIGHT, UNDER § 14-1202.1 OF THE COMMERCIAL LAW**
28 **ARTICLE OF THE ANNOTATED CODE OF MARYLAND, TO PLACE A SECURITY**
29 **FREEZE ON YOUR CREDIT REPORT AT NO CHARGE TO YOU. THE SECURITY**
30 **FREEZE WILL PROHIBIT A CONSUMER REPORTING AGENCY FROM RELEASING**

1 ANY INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS
2 AUTHORIZATION. THE PURPOSE OF A SECURITY FREEZE IS TO PREVENT
3 CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN YOUR NAME
4 WITHOUT YOUR CONSENT.

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

18 IF YOU WANT TO TEMPORARILY LIFT THE SECURITY FREEZE ON YOUR
19 CREDIT REPORT, YOU MUST CONTACT THE CONSUMER REPORTING AGENCY AND
20 PROVIDE ALL OF THE FOLLOWING:

21 (1) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR
22 PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY;

23 (2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY; AND

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

27 A CONSUMER REPORTING AGENCY MUST COMPLY WITH A REQUEST TO
28 TEMPORARILY LIFT A SECURITY FREEZE ON A CREDIT REPORT WITHIN 3 DAYS
29 AFTER THE REQUEST IS RECEIVED.

30 IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD BE AWARE THAT
31 THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR
32 OWN APPLICATIONS FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A

1 SECURITY FREEZE, EITHER COMPLETELY IF YOU ARE SEEKING CREDIT FROM A
2 NUMBER OF SOURCES, OR JUST FOR A SPECIFIC CREDITOR IF YOU ARE
3 APPLYING ONLY TO THAT CREDITOR, A FEW DAYS BEFORE ACTUALLY APPLYING
4 FOR NEW CREDIT.

5 A SECURITY FREEZE DOES NOT APPLY IF YOU HAVE AN EXISTING
6 ACCOUNT RELATIONSHIP AND A COPY OF YOUR CREDIT REPORT IS REQUESTED
7 BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN
8 TYPES OF ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL, OR SIMILAR
9 ACTIVITIES.

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

13 (K) IF A CONSUMER REPORTING AGENCY VIOLATES A SECURITY FREEZE
14 BY RELEASING A CONSUMER'S CONSUMER REPORT OR ANY INFORMATION IN A
15 CONSUMER'S CONSUMER REPORT, THE CONSUMER REPORTING AGENCY,
16 WITHIN 5 BUSINESS DAYS AFTER THE RELEASE, SHALL NOTIFY THE CONSUMER
17 OF:

18 (1) THE SPECIFIC INFORMATION RELEASED; AND

19 (2) THE NAME AND ADDRESS OF THE RECIPIENT OF THE
20 INFORMATION RELEASED.

21 (L) (1) IN ADDITION TO ANY OTHER REMEDIES THAT MAY BE
22 AVAILABLE UNDER THIS SUBTITLE, A CONSUMER WHO IS AFFECTED BY A
23 VIOLATION OF THIS SECTION MAY BRING AN ACTION AGAINST THE PERSON
24 THAT COMMITTED THE VIOLATION.

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

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

28 1. \$500 FOR EACH VIOLATION; OR

