

BY: Finance Committee

AMENDMENTS TO SENATE BILL 295

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “individuals” and substitute “representatives”; in line 4, after “report” insert “or a certain record”; in the same line, after the first “certain” insert “protected”; strike beginning with “and” in line 4 down through “are” in line 5 and substitute “or”; in line 6, after “certain” insert “application”; strike beginning with “requiring” in line 6 down through “circumstances;” in line 12 and substitute “requiring a consumer reporting agency to place a security freeze for a protected consumer under certain circumstances and within a certain period of time; requiring a consumer reporting agency to create a certain record under certain circumstances;”; in line 13, strike “without certain authorization”; strike beginning with “authorizing” in line 14 down through “changes;” in line 22 and substitute “providing that a certain security freeze remains in effect until a certain request is made or the security freeze is removed in accordance with a certain provision of this Act; providing that a certain protected consumer or representative may request the removal of a certain security freeze by submitting a certain request in a certain manner and under certain circumstances; requiring a consumer reporting agency to remove a certain security freeze within a certain period of time; prohibiting a consumer reporting agency from charging a certain fee except under certain circumstances; allowing a consumer reporting agency to remove a certain security freeze or delete a certain record under certain circumstances; providing that the exclusive remedy for a certain violation shall be a certain complaint filed with the Commissioner of Financial Regulation; defining certain terms; repealing certain obsolete provisions; providing for a delayed effective date;”.

On page 2, after line 3, insert:

“BY adding to

Article – Commercial Law

(Over)

Section 14-1212.2
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)".

AMENDMENT NO. 2

On page 2, strike in their entirety lines 12 through 17, inclusive; in line 18, strike "**(4)**" and substitute "**(3)**"; and in lines 19 and 20 and in lines 22 and 23, in each instance, strike "**OR THE CONSUMER'S REPRESENTATIVE**".

On page 3, in lines 19 and 20, strike "**OR A CONSUMER'S REPRESENTATIVE**"; and in line 21, strike "**OR THE CONSUMER'S REPRESENTATIVE**".

On page 4, in line 13 and in lines 24 and 25, in each instance, strike "**OR A CONSUMER'S REPRESENTATIVE**"; in line 16, strike "Beginning January 1, 2010, subject" and substitute "**SUBJECT**"; in lines 18 and 19, strike "**OR THE CONSUMER'S REPRESENTATIVE**"; and strike beginning with the colon in line 28 down through "2008," in line 31.

On page 5, in line 4, in lines 5 and 6, in line 7, in lines 10 and 11, in lines 26 and 27, in lines 28 and 29, and in line 31, in each instance, strike "**OR THE CONSUMER'S REPRESENTATIVE**"; and in line 24, strike "**OR A CONSUMER'S REPRESENTATIVE**".

On page 6, strike in their entirety lines 1 through 6, inclusive; in line 10, in line 19, and in lines 26 and 27, in each instance, strike "**OR THE CONSUMER'S REPRESENTATIVE**"; and in line 16, strike "**OR A CONSUMER'S REPRESENTATIVE**".

On page 7, in line 2, in line 25, in lines 29 and 30, and in lines 34 and 35, in each instance, strike "**OR THE CONSUMER'S REPRESENTATIVE**"; in line 10, strike "After January 31, 2009, a" and substitute "**A**"; in line 12, strike "**OR THE CONSUMER'S REPRESENTATIVE'S**"; and in line 21, strike "**OR A CONSUMER'S REPRESENTATIVE**".

On page 8, in lines 1 and 2, in line 9, in line 12, in lines 15 and 16, and in lines 23 and 24, in each instance, strike “OR THE CONSUMER’S REPRESENTATIVE”; and in line 14, strike “OR A CONSUMER’S REPRESENTATIVE”.

On page 9, in line 4, and in lines 9 and 10, in each instance, strike “OR A CONSUMER’S REPRESENTATIVE”; strike beginning with “A” in line 25 down through the period in line 28; in line 32, strike “5” and substitute “3”; and strike beginning with the first comma in line 33 down through “2008” in line 34.

On page 10, in line 14, strike “starting January 31, 2009,”; in lines 24 and 25, strike “OR A CONSUMER’S REPRESENTATIVE”; and in lines 33 and 34, in each instance, strike the brackets.

AMENDMENT NO. 3

On page 11, after line 4, insert:

“14-1212.2.

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

(2) “PROTECTED CONSUMER” MEANS AN INDIVIDUAL WHO IS:

(i) UNDER THE AGE OF 16 YEARS AT THE TIME A REQUEST FOR THE PLACEMENT OF A SECURITY FREEZE IS MADE; OR

(ii) AN INCAPACITATED PERSON OR A PROTECTED PERSON FOR WHOM A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED IN ACCORDANCE WITH TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE.

(Over)

(3) “RECORD” MEANS A COMPILATION OF INFORMATION THAT:

(i) IDENTIFIES A PROTECTED CONSUMER;

(ii) IS CREATED BY A CONSUMER REPORTING AGENCY SOLELY FOR THE PURPOSE OF COMPLYING WITH THIS SECTION; AND

(iii) MAY NOT BE CREATED OR USED TO CONSIDER THE PROTECTED CONSUMER’S CREDIT WORTHINESS, CREDIT STANDING, CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS, OR MODE OF LIVING FOR ANY PURPOSE LISTED IN § 14-1201(D)(1) OF THIS SUBTITLE.

(4) “REPRESENTATIVE” MEANS A PERSON WHO PROVIDES TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(5) “SECURITY FREEZE” MEANS:

(i) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER’S RECORD IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER’S RECORD EXCEPT AS PROVIDED IN THIS SECTION; OR

(II) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO THE PROTECTED CONSUMER, A RESTRICTION THAT:

1. IS PLACED ON THE PROTECTED CONSUMER'S CONSUMER REPORT IN ACCORDANCE WITH THIS SECTION; AND

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER'S CONSUMER REPORT OR ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT EXCEPT AS PROVIDED IN THIS SECTION.

(6) (I) "SUFFICIENT PROOF OF AUTHORITY" MEANS DOCUMENTATION THAT SHOWS A REPRESENTATIVE HAS AUTHORITY TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(II) "SUFFICIENT PROOF OF AUTHORITY" INCLUDES:

1. AN ORDER ISSUED BY A COURT OF LAW;
2. A LAWFULLY EXECUTED AND VALID POWER OF ATTORNEY; AND

3. A WRITTEN, NOTARIZED STATEMENT SIGNED BY A REPRESENTATIVE THAT EXPRESSLY DESCRIBES THE AUTHORITY OF THE REPRESENTATIVE TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(7) (I) “SUFFICIENT PROOF OF IDENTIFICATION” MEANS INFORMATION OR DOCUMENTATION THAT IDENTIFIES A PROTECTED CONSUMER OR A REPRESENTATIVE OF A PROTECTED CONSUMER.

(II) “SUFFICIENT PROOF OF IDENTIFICATION” INCLUDES:

1. A SOCIAL SECURITY NUMBER OR A COPY OF A SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION;

2. A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE ISSUED BY THE ENTITY AUTHORIZED TO ISSUE THE BIRTH CERTIFICATE;

3. A COPY OF A DRIVER’S LICENSE, AN IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION, OR ANY OTHER GOVERNMENT-ISSUED IDENTIFICATION; OR

4. A COPY OF A BILL, INCLUDING A BILL FOR TELEPHONE, SEWER, SEPTIC TANK, WATER, ELECTRIC, OIL, OR NATURAL GAS SERVICES, THAT SHOWS A NAME AND HOME ADDRESS.

(B) THIS SECTION DOES NOT APPLY TO THE USE OF A PROTECTED CONSUMER’S CONSUMER REPORT OR RECORD BY:

(1) A PERSON ADMINISTERING A CREDIT FILE MONITORING SUBSCRIPTION SERVICE TO WHICH:

(I) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR

(II) THE REPRESENTATIVE OF THE PROTECTED CONSUMER HAS SUBSCRIBED ON BEHALF OF THE PROTECTED CONSUMER;

(2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE WITH A COPY OF THE PROTECTED CONSUMER'S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE; OR

(3) AN ENTITY LISTED IN § 14-1212.1(B)(2)(I) OR (II) OR (C)(5) OF THIS SUBTITLE.

(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED CONSUMER IF:

(I) THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE PROTECTED CONSUMER'S REPRESENTATIVE FOR THE PLACEMENT OF THE SECURITY FREEZE UNDER THIS SECTION; AND

(II) THE PROTECTED CONSUMER'S REPRESENTATIVE:

1. SUBMITS THE REQUEST TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY;

2. PROVIDES TO THE CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER AND THE REPRESENTATIVE;

3. PROVIDES TO THE CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED CONSUMER; AND

4. PAYS TO THE CONSUMER REPORTING AGENCY A FEE AS PROVIDED IN SUBSECTION (I) OF THIS SECTION.

(2) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED CONSUMER.

(D) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (C)(1) OF THIS SECTION, A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(E) UNLESS A SECURITY FREEZE FOR A PROTECTED CONSUMER IS REMOVED IN ACCORDANCE WITH SUBSECTION (G) OR (J) OF THIS SECTION, A CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED CONSUMER'S CONSUMER REPORT, ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT, OR ANY RECORD CREATED FOR THE PROTECTED CONSUMER.

(F) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER SUBSECTION (D) OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL:

(1) THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE REQUESTS THE CONSUMER REPORTING AGENCY TO REMOVE THE SECURITY FREEZE IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION; OR

(2) THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION.

(G) 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 REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING AGENCY;

(2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

(I) IN THE CASE OF A REQUEST BY THE PROTECTED CONSUMER:

1. 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

2. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER; OR

(Over)

(II) IN THE CASE OF A REQUEST BY THE REPRESENTATIVE OF A PROTECTED CONSUMER:

1. SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER AND THE REPRESENTATIVE; AND

2. SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED CONSUMER; AND

(3) PAY TO THE CONSUMER REPORTING AGENCY A FEE AS PROVIDED IN SUBSECTION (I) OF THIS SECTION.

(H) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION, THE CONSUMER REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE PROTECTED CONSUMER.

(I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A CONSUMER REPORTING AGENCY MAY NOT CHARGE A FEE FOR ANY SERVICE PERFORMED UNDER THIS SECTION.

(2) A CONSUMER REPORTING AGENCY MAY CHARGE A REASONABLE FEE, NOT EXCEEDING \$5, FOR EACH PLACEMENT OR REMOVAL OF A SECURITY FREEZE FOR A PROTECTED CONSUMER.

(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION IF:

(I) THE PROTECTED CONSUMER'S REPRESENTATIVE:

1. HAS OBTAINED A REPORT OF ALLEGED IDENTITY FRAUD AGAINST THE PROTECTED CONSUMER UNDER § 8-304 OF THE CRIMINAL LAW ARTICLE OR AN IDENTITY THEFT PASSPORT UNDER § 8-305 OF THE CRIMINAL LAW ARTICLE; AND

2. PROVIDES A COPY OF THE REPORT OR PASSPORT TO THE CONSUMER REPORTING AGENCY; OR

(II) 1. A REQUEST FOR THE PLACEMENT OR REMOVAL OF A SECURITY FREEZE IS FOR A PROTECTED CONSUMER WHO IS UNDER THE AGE OF 16 YEARS AT THE TIME OF THE REQUEST; AND

2. THE CONSUMER REPORTING AGENCY HAS A CONSUMER REPORT PERTAINING TO THE PROTECTED CONSUMER.

(J) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED CONSUMER IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE.

(K) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION SHALL BE A COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14-1217 OF THIS SUBTITLE.”.

On page 11, in line 6, strike “October 1, 2012” and substitute “January 1, 2013”.