

SENATE BILL 295

I3, I2

2lr0550
CF 2lr0884

By: **Senators Astle, Klausmeier, Miller, Benson, Brinkley, Colburn, Conway, Currie, DeGrange, Edwards, Ferguson, Forehand, Frosh, Garagiola, Getty, Jacobs, Jennings, Jones–Rodwell, Kelley, King, Madaleno, Manno, Mathias, McFadden, Middleton, Montgomery, Peters, Pinsky, Pipkin, Pugh, Ramirez, Raskin, Reilly, Robey, Shank, Stone, Young, and Zirkin**

Introduced and read first time: January 26, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Security Freezes – Minors and Protected Persons**

3 FOR the purpose of authorizing certain individuals to request a security freeze on the
4 consumer report of certain consumers who are minor children and certain
5 consumers who are individuals under guardianship or conservatorship in
6 accordance with certain procedures; requiring a consumer reporting agency to
7 place a security freeze on certain consumer reports of certain consumers on
8 request of certain individuals and to send certain information to the individuals;
9 authorizing a consumer reporting agency to require certain individuals to
10 confirm a certain request in writing; requiring a consumer reporting agency to
11 create a certain consumer report for a certain consumer under certain
12 circumstances; prohibiting a consumer reporting agency from releasing certain
13 information while a security freeze is in place without certain authorization;
14 authorizing a person who requests access to a consumer report of a certain
15 consumer to treat a certain application as incomplete under certain
16 circumstances; providing for the temporary or permanent removal of a security
17 freeze on a consumer report of a certain consumer in accordance with certain
18 procedures; prohibiting the charging of a fee for imposition of a security freeze
19 on the consumer report of a certain consumer under certain circumstances;
20 requiring a certain notice to contain certain information; altering the
21 application of certain provisions of law; defining a certain term; altering a
22 certain definition; making certain stylistic and conforming changes; and
23 generally relating to consumer reports and security freezes.

24 BY repealing and reenacting, with amendments,
25 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 14–1212.1
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2011 Supplement)

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

6 **Article – Commercial Law**

7 14–1212.1.

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

9 (2) “Account review” includes activities related to account
10 maintenance, account monitoring, credit line increases, and account upgrades and
11 enhancements.

12 (3) **“REPRESENTATIVE” MEANS:**

13 **(I) THE CUSTODIAL PARENT OR LEGAL GUARDIAN OF A**
14 **CONSUMER WHO IS A MINOR; OR**

15 **(II) THE GUARDIAN OR CONSERVATOR OF A CONSUMER**
16 **WHO IS AN INCAPACITATED PERSON OR A PROTECTED PERSON APPOINTED IN**
17 **ACCORDANCE WITH TITLE 13 OF THE ESTATES AND TRUSTS ARTICLE.**

18 (4) “Security freeze” means a restriction placed on a consumer’s
19 consumer report at the request of the consumer **OR THE CONSUMER’S**
20 **REPRESENTATIVE** that prohibits a consumer reporting agency from releasing the
21 consumer’s consumer report or any information derived from the consumer’s consumer
22 report without the express authorization of the consumer **OR THE CONSUMER’S**
23 **REPRESENTATIVE.**

24 (b) (1) This section does not apply to the use of a consumer’s consumer
25 report by:

26 (i) A person, or a subsidiary, affiliate, agent, or assignee of the
27 person, with which the consumer has, or prior to assignment had, an account,
28 contract, or debtor–creditor relationship, for the purpose of account review or
29 collecting the financial obligation owing for the account, contract, or debt;

30 (ii) A person that was given access to the consumer’s consumer
31 report under subsection (e) of this section for the purpose of facilitating an extension of
32 credit to the consumer or another permissible use;

1 (iii) A person acting in accordance with a court order, warrant,
2 or subpoena;

3 (iv) A unit of State or local government that administers a
4 program for establishing and enforcing child support obligations;

5 (v) The Department of Health and Mental Hygiene in
6 connection with a fraud investigation conducted by the Department;

7 (vi) The State Department of Assessments and Taxation, the
8 Comptroller, or any other State or local taxing authority in connection with:

9 1. An investigation conducted by the Department,
10 Comptroller, or taxing authority;

11 2. The collection of delinquent taxes or unpaid court
12 orders by the Department, Comptroller, or taxing authority; or

13 3. The performance of any other duty provided for by
14 law;

15 (vii) A person for the purpose of prescreening, as defined by the
16 federal Fair Credit Reporting Act;

17 (viii) A person administering a credit file monitoring subscription
18 service to which the consumer has subscribed;

19 (ix) A person providing a consumer **OR A CONSUMER'S**
20 **REPRESENTATIVE** with a copy of the consumer's consumer report on request of the
21 consumer **OR THE CONSUMER'S REPRESENTATIVE**; or

22 (x) To the extent not prohibited by other State law, a person
23 only for the purpose of setting or adjusting an insurance rate, adjusting an insurance
24 claim, or underwriting an insurance risk.

25 (2) This section does not apply to:

26 (i) A check services or fraud prevention services company that
27 issues:

28 1. Reports on incidents of fraud; or

29 2. Authorizations for the purpose of approving or
30 processing negotiable instruments, electronic funds transfers, or similar payment
31 methods;

1 (ii) A deposit account information service company that issues
2 reports regarding account closures due to fraud, substantial overdrafts, automated
3 teller machine abuse, or similar negative information regarding a consumer to
4 inquiring banks or other financial institutions for use only in reviewing a consumer
5 request for a deposit account at the inquiring bank or financial institution; or

6 (iii) A consumer reporting agency database or file that consists
7 entirely of consumer information concerning, and used solely for:

- 8 1. Criminal record information;
- 9 2. Personal loss history information;
- 10 3. Fraud prevention or detection;
- 11 4. Employment screening; or
- 12 5. Tenant screening.

13 (c) (1) A consumer **OR A CONSUMER'S REPRESENTATIVE** may elect to
14 place a security freeze on the consumer's consumer report by:

15 (i) Written request sent by certified mail;

16 (ii) Beginning January 1, 2010, subject to paragraph (6) of this
17 subsection, telephone, by providing certain personal information that the consumer
18 reporting agency may require to verify the identity of the consumer **OR THE**
19 **CONSUMER'S REPRESENTATIVE**;

20 (iii) Electronic mail using an electronic postmark if a secure
21 electronic mail connection is made available by the consumer reporting agency; or

22 (iv) If the consumer reporting agency makes a secure connection
23 available on its website, an electronic request through that secure connection.

24 (2) A consumer reporting agency shall require a consumer **OR A**
25 **CONSUMER'S REPRESENTATIVE** to provide proper identifying information when
26 requesting a security freeze.

27 (3) Except as provided in paragraph (5) of this subsection, a consumer
28 reporting agency shall place a security freeze on a consumer's consumer report:

29 (i) Before July 1, 2008, within 5 business days after receiving a
30 request under paragraph (1) of this subsection; or

31 (ii) On or after July 1, 2008, within 3 business days after
32 receiving a request under paragraph (1) of this subsection.

1 (4) Within 5 business days after placing a security freeze on a
2 consumer's consumer report, the consumer reporting agency shall:

3 (i) Send a written confirmation of the security freeze to the
4 consumer **OR THE CONSUMER'S REPRESENTATIVE**;

5 (ii) Provide the consumer **OR THE CONSUMER'S**
6 **REPRESENTATIVE** with a unique personal identification number or password to be
7 used by the consumer **OR THE CONSUMER'S REPRESENTATIVE** when authorizing
8 the release of the consumer's consumer report to a specific person or for a specific
9 period of time; and

10 (iii) Provide the consumer **OR THE CONSUMER'S**
11 **REPRESENTATIVE** with a written statement of the procedures for requesting the
12 consumer reporting agency to remove or temporarily lift a security freeze.

13 (5) (i) Subject to subparagraph (ii) of this paragraph, a consumer
14 reporting agency is not required to place a security freeze on a consumer report if the
15 consumer reporting agency:

16 1. Acts only as a reseller of credit information by
17 assembling and merging information contained in a database of another consumer
18 reporting agency or multiple consumer reporting agencies; and

19 2. Does not maintain a permanent database of credit
20 information from which new consumer reports are produced.

21 (ii) A consumer reporting agency that acts as a reseller of credit
22 information shall honor a security freeze placed on a consumer report by another
23 consumer reporting agency.

24 (6) (i) If a consumer **OR A CONSUMER'S REPRESENTATIVE**
25 requests placement of a security freeze by telephone under paragraph (1)(ii) of this
26 subsection, the consumer reporting agency may require the consumer **OR THE**
27 **CONSUMER'S REPRESENTATIVE** to confirm the request in writing on a form that the
28 consumer reporting agency provides to the consumer **OR THE CONSUMER'S**
29 **REPRESENTATIVE** with the materials sent in accordance with paragraph (4) of this
30 subsection.

31 (ii) If the consumer **OR THE CONSUMER'S REPRESENTATIVE**
32 fails to return written confirmation that the consumer reporting agency requires
33 under subparagraph (i) of this paragraph, the consumer reporting agency may remove
34 the security freeze in accordance with subsection (g)(2) of this section.

1 2. The unique personal identification number or
2 password provided to the consumer **OR THE CONSUMER'S REPRESENTATIVE** under
3 subsection (c)(4)(ii) of this section; and

4 3. The proper information regarding the person that is
5 to receive the consumer report or the time period during which the consumer report is
6 to be available to users of the consumer report.

7 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
8 consumer reporting agency shall comply with a request made under paragraph (1) of
9 this subsection within 3 business days after receiving the request.

10 (ii) 1. After January 31, 2009, a consumer reporting agency
11 shall comply with a request made under paragraph (1) of this subsection within 15
12 minutes after the consumer's **OR THE CONSUMER'S REPRESENTATIVE'S** request is
13 received by the consumer reporting agency if the request is made by telephone, by
14 electronic mail, or by secure connection on the website of the consumer reporting
15 agency.

16 2. A consumer reporting agency that is unable to
17 temporarily lift a security freeze under subparagraph 1 of this subparagraph shall
18 lift the security freeze as soon as it is reasonably capable of doing so.

19 (3) A consumer reporting agency may develop procedures involving
20 the use of facsimile or other electronic media to receive and process, in an expedited
21 manner, a request from a consumer **OR A CONSUMER'S REPRESENTATIVE** to
22 temporarily lift or remove a security freeze on the consumer's consumer report.

23 (f) If, in connection with an application for credit or for any other use, a
24 person requests access to a consumer's consumer report while a security freeze is in
25 place and the consumer **OR THE CONSUMER'S REPRESENTATIVE** does not authorize
26 access to the consumer report, the person may treat the application as incomplete.

27 (g) (1) Except as provided in paragraph (2) of this subsection, a consumer
28 reporting agency may remove or temporarily lift a security freeze placed on a
29 consumer's consumer report only on request of the consumer **OR THE CONSUMER'S**
30 **REPRESENTATIVE** made under subsection (e) or (h) of this section.

31 (2) (i) A consumer reporting agency may remove a security freeze
32 placed on a consumer's consumer report if:

33 1. Placement of the security freeze was based on a
34 material misrepresentation of fact by the consumer **OR THE CONSUMER'S**
35 **REPRESENTATIVE**; or

1 your credit report to a specific person or for a specific period of time. You also will
2 receive information on the procedures for removing or temporarily lifting a security
3 freeze.

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

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

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

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

12 A consumer reporting agency must comply with a request to temporarily lift a
13 security freeze on a credit report within 3 business days after the request is received,
14 or within 15 minutes starting January 31, 2009, for certain requests. A consumer
15 reporting agency must comply with a request to remove a security freeze on a credit
16 report within 3 business days after the request is received.

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

22 A consumer reporting agency may charge a reasonable fee not exceeding \$5 for
23 each placement, temporary lift, or removal of a security freeze. However, a consumer
24 reporting agency may not charge any fee to a consumer **OR A CONSUMER'S**
25 **REPRESENTATIVE** who, at the time of a request to place, temporarily lift, or remove a
26 security freeze, presents to the consumer reporting agency a police report of alleged
27 identity fraud against the consumer or an identity theft passport.

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

32 (k) If a consumer reporting agency violates a security freeze by releasing a
33 [consumer's] consumer report subject to a security freeze or any information derived
34 from a [consumer's] consumer report subject to a security freeze without
35 authorization, the consumer reporting agency, within 5 business days after
36 discovering or being notified of the release, shall notify the consumer in writing of:

37 (1) The specific information released; and

1 (2) The name and address of, or other available contact information
2 for, the recipient of the consumer report or the information released.

3 (1) The exclusive remedy for a violation of subsection (e)(2)(ii) of this section
4 shall be a complaint filed with the Commissioner under § 14–1217 of this subtitle.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.