

# HOUSE BILL 782

I3, I2, P1

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CF SB 665

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By: **Delegates Waldstreicher, Barkley, Carr, Clippinger, Glenn, Hill, Kramer, Lisanti, McCray, A. Miller, Rosenberg, Sanchez, Stein, Sydnor, Valderrama, Vaughn, and C. Wilson**

Introduced and read first time: February 8, 2016

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2016

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## 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, temporarily lifting a security freeze a certain number  
6 of times, or removing a security freeze if the consumer has received a certain notice  
7 of a breach of the security of a system under certain provisions of State law or from  
8 or on behalf of a federal agency and provides a copy of the notice to the consumer  
9 reporting agency; altering the contents of a certain notice that must be included with  
10 a certain summary of rights provided to a consumer; requiring that certain notices  
11 relating to the breach of the security of a system include certain information about  
12 limitations on the fees that may be charged by a consumer reporting agency for  
13 placing, temporarily lifting, or removing a security freeze; and generally relating to  
14 fees charged by consumer reporting agencies for services relating to a security freeze  
15 and notices about the fees.

16 BY repealing and reenacting, without amendments,  
17 Article – Commercial Law  
18 Section 14–1212.1(a)(1) and (3) and 14–3504(a) and (b)(1) and (2)  
19 Annotated Code of Maryland  
20 (2013 Replacement Volume and 2015 Supplement)

21 BY repealing and reenacting, with amendments,

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### 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.



1 Article – Commercial Law  
2 Section 14–1212.1(i) and (j) and 14–3504(g)  
3 Annotated Code of Maryland  
4 (2013 Replacement Volume and 2015 Supplement)

5 BY repealing and reenacting, without amendments,  
6 Article – State Government  
7 Section 10–1305(a) and (b)(1) and (2)  
8 Annotated Code of Maryland  
9 (2014 Replacement Volume and 2015 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article – State Government  
12 Section 10–1305(g)  
13 Annotated Code of Maryland  
14 (2014 Replacement Volume and 2015 Supplement)

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

17 **Article – Commercial Law**

18 14–1212.1.

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

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

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

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

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

30 (i) Has obtained a report of alleged identity fraud against the  
31 consumer under § 8–304 of the Criminal Law Article or an identity theft passport under §  
32 8–305 of the Criminal Law Article; and

33 (ii) Provides a copy of the report or passport to the consumer  
34 reporting agency.



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

4           A consumer reporting agency must comply with a request to temporarily lift a  
5 security freeze on a credit report within 3 business days after the request is received, or  
6 within 15 minutes for certain requests. A consumer reporting agency must comply with a  
7 request to remove a security freeze on a credit report within 3 business days after the  
8 request is received.

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

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

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

30 14-3504.

31           (a)     In this section:

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

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

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

6 (2) If, after the investigation is concluded, the business determines that  
7 misuse of the individual's personal information has occurred or is reasonably likely to occur  
8 as a result of a breach of the security of a system, the business shall notify the individual  
9 of the breach.

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

11 (1) To the extent possible, a description of the categories of information  
12 that were, or are reasonably believed to have been, acquired by an unauthorized person,  
13 including which of the elements of personal information were, or are reasonably believed  
14 to have been, acquired;

15 (2) Contact information for the business making the notification, including  
16 the business' address, telephone number, and toll-free telephone number if one is  
17 maintained;

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

20 (4) (i) The toll-free telephone numbers, addresses, and Web site  
21 addresses for:

- 22 1. The Federal Trade Commission; and
- 23 2. The Office of the Attorney General; and

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

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

## 32 Article – State Government

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

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

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

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

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

- 21 1. the personal information of the individual was secured by  
22 encryption or redacted; and
- 23 2. the encryption key has not been compromised or disclosed.

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

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

29 (2) contact information for the unit making the notification, including the  
30 unit’s address, telephone number, and toll-free telephone number if one is maintained;

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

33 (4) (i) the toll-free telephone numbers, addresses, and Web site  
34 addresses for:

1                   1.     the Federal Trade Commission; and

2                   2.     the Office of the Attorney General; and

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

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

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2016.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.