

HOUSE BILL 782

I3, I2, P1

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CF 6lr2366

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

A BILL ENTITLED

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,
22 Article – Commercial Law
23 Section 14–1212.1(i) and (j) and 14–3504(g)
24 Annotated Code of Maryland
25 (2013 Replacement Volume and 2015 Supplement)

26 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Government
2 Section 10–1305(a) and (b)(1) and (2)
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2015 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – State Government
7 Section 10–1305(g)
8 Annotated Code of Maryland
9 (2014 Replacement Volume and 2015 Supplement)

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

12 **Article – Commercial Law**

13 14–1212.1.

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

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

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

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

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

25 (i) Has obtained a report of alleged identity fraud against the
26 consumer under § 8–304 of the Criminal Law Article or an identity theft passport under §
27 8–305 of the Criminal Law Article; and

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

30 **(4) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A**
31 **CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION**
32 **TO A CONSUMER FOR A PLACEMENT OR REMOVAL OF A SECURITY FREEZE OR FOR**
33 **THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF**
34 **THE CONSUMER:**

1 (I) HAS RECEIVED NOTICE OF A BREACH OF THE SECURITY OF
2 A SYSTEM UNDER § 14-3504 OF THIS TITLE OR § 10-1305 OF THE STATE
3 GOVERNMENT ARTICLE OR FROM OR ON BEHALF OF A FEDERAL GOVERNMENT
4 AGENCY; AND

5 (II) PROVIDES A COPY OF THE NOTICE TO THE CONSUMER
6 REPORTING AGENCY.

7 (j) At any time that a consumer is entitled to receive a summary of rights under
8 § 609 of the federal Fair Credit Reporting Act or § 14-1206 of this subtitle, the following
9 notice shall be included:

10 “NOTICE

11 You have a right, under § 14-1212.1 of the Commercial Law Article of the Annotated
12 Code of Maryland, to place a security freeze on your credit report. The security freeze will
13 prohibit a consumer reporting agency from releasing your credit report or any information
14 derived from your credit report without your express authorization. The purpose of a
15 security freeze is to prevent credit, loans, and services from being approved in your name
16 without your consent.

17 You may elect to have a consumer reporting agency place a security freeze on your
18 credit report by written request sent by certified mail or by electronic mail or the Internet
19 if the consumer reporting agency provides a secure electronic connection. The consumer
20 reporting agency must place a security freeze on your credit report within 3 business days
21 after your request is received. Within 5 business days after a security freeze is placed on
22 your credit report, you will be provided with a unique personal identification number or
23 password to use if you want to remove the security freeze or temporarily lift the security
24 freeze to release your credit report to a specific person or for a specific period of time. You
25 also will receive information on the procedures for removing or temporarily lifting a
26 security freeze.

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

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

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

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

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

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

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

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

27 14-3504.

28 (a) In this section:

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

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

36 (b) (1) A business that owns or licenses computerized data that includes
37 personal information of an individual residing in the State, when it discovers or is notified
38 of a breach of the security of a system, shall conduct in good faith a reasonable and prompt

1 investigation to determine the likelihood that personal information of the individual has
2 been or will be misused as a result of the breach.

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

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

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

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

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

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

- 19 1. The Federal Trade Commission; and
20 2. The Office of the Attorney General; and

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

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

29 **Article – State Government**

30 10-1305.

31 (a) (1) In this section, "breach of the security of a system" means the
32 unauthorized acquisition of computerized data that compromises the security,
33 confidentiality, or integrity of the personal information maintained by a unit.

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

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

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

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

- 18 1. the personal information of the individual was secured by
19 encryption or redacted; and
- 20 2. the encryption key has not been compromised or disclosed.

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

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

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

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

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

- 32 1. the Federal Trade Commission; and
- 33 2. the Office of the Attorney General; and

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

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

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