

2005 Assembly Bill 912

Date of enactment: **March 16, 2006**
Date of publication*: **March 30, 2006**

2005 WISCONSIN ACT 140

AN ACT *to create* 100.54 of the statutes; **relating to:** allowing individuals to restrict release of credit reports and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.54 of the statutes is created to read:

100.54 Access to credit reports. (1) DEFINITIONS.

In this section:

(a) "Business day" means a business day, as defined in s. 421.301 (6), that is not a legal holiday under s. 895.20 or a federal legal holiday.

(b) "Consumer report" has the meaning given in 15 USC 1681a (d).

(c) "Consumer reporting agency" has the meaning given in s. 15 USC 1681a (f).

(d) "Reseller" means a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer reports are produced.

(e) "Security freeze" means a notice included with an individual's consumer report that indicates that releases of the consumer report are subject to this section.

(2) SECURITY FREEZES. (a) Except as provided in par. (c), a consumer reporting agency shall include a security freeze with an individual's consumer report if the individual does all of the following:

1. Sends a request by certified mail to an address designated by the consumer reporting agency, or sends a request directly to the consumer reporting agency by any other means that the consumer reporting agency may provide.

2. Provides the consumer reporting agency with proper identification.

3. If applicable, pays the fee specified in sub. (9).

(b) No later than 5 business days after an individual satisfies the requirements under par. (a) 1. to 3., a consumer reporting agency shall include a security freeze with the individual's consumer report. No later than 10 business days after including the security freeze with the consumer report, the consumer reporting agency shall send the individual a notice that does all of the following:

1. Confirms that a security freeze is included with the individual's consumer report.

2. Includes a unique personal identification number, password, or other device for the individual to authorize release of the consumer report.

3. Describes the procedure for authorizing release of the consumer report.

(c) Paragraph (a) does not apply to any of the following:

1. A reseller, except that if a reseller obtains from another consumer reporting agency an individual's con-

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sumer report that includes a security freeze, the reseller shall include the security freeze with any consumer report regarding the individual that the reseller maintains.

2. A consumer reporting agency that is a check services or fraud prevention services company which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments.

3. A consumer reporting agency that is a deposit account information service company which issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar negative information regarding an individual to inquiring financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring financial institution.

(3) PROHIBITION. Except as provided in sub. (8), if an individual's consumer report includes a security freeze, a consumer reporting agency may not release the consumer report to any person for any purpose related to the extension of credit unless the individual gives prior authorization for the release under sub. (4).

(4) RELEASE AUTHORIZATION. (a) An individual whose consumer report includes a security freeze may authorize a consumer reporting agency to release the report by doing all of the following:

1. Contacting the consumer reporting agency using a point of contact designated by the consumer reporting agency.

2. Providing proper identification and the personal identification number, password, or other device specified in sub. (2) (b) 2.

3. Specifying the time period for which the release is authorized.

4. If applicable, paying the fee specified in sub. (9).

(b) If an individual satisfies the requirements under par. (a) 1. to 4., the consumer reporting agency shall release the individual consumer report during the time period specified by the individual, except that a consumer reporting agency is not required to release a consumer report sooner than 3 business days after the individual contacts the consumer reporting agency under par. (a) 1. A consumer reporting agency may establish procedures for releasing consumer reports sooner than 3 business days for individuals who satisfy the requirements under par. (a) 1. to 4. by telephone, facsimile, or the Internet, or by use of other electronic media.

(5) RELEASE OF REPORTS. A consumer reporting agency may release an individual's consumer report that includes a security freeze if any of the following apply:

(a) The individual authorizes the release under sub. (4).

(b) The individual requests removal of the security freeze under sub. (6).

(c) The consumer reporting agency included a security freeze with the consumer report due to a material misrepresentation of fact by the individual, if the consumer reporting agency notifies the individual in writing about the misrepresentation before the consumer reporting agency releases the consumer report.

(6) REMOVING SECURITY FREEZES. (a) An individual may request removal of a security freeze included with the individual's consumer report by doing all of the following:

1. Contacting the consumer reporting agency using a point of contact designated by the consumer reporting agency.

2. Providing proper identification and the personal identification number, password, or other device specified in sub. (2) (b) 2.

3. If applicable, paying the fee specified in sub. (9).

(b) If an individual requests removal of a security freeze under par. (a), the consumer reporting agency shall remove the security freeze from the individual's consumer report no later than 3 business days after the individual satisfies the requirements under par. (a) 1. to 3. and the consumer reporting agency's release of the report is no longer subject to this section.

(7) THIRD PARTIES. (a) If a 3rd party requests access to an individual's consumer report that includes a security freeze, the request is made in connection with the individual's application for an extension of credit, and the consumer reporting agency is prohibited under this section from releasing the report to the 3rd party, the 3rd party may treat the individual's application as incomplete.

(b) This section does not prohibit a consumer reporting agency from advising a 3rd party that an individual's consumer report includes a security freeze and that the consumer reporting agency must obtain the individual's authorization before releasing the individual's consumer report.

(8) EXCEPTIONS. This section does not apply to an individual's consumer report that a consumer reporting agency releases to, or for, any of the following:

(a) 1. a. A person with whom the individual has, or had prior to assignment, an account or contract, including a demand deposit account; a person to whom the individual issued or is otherwise personally liable on a negotiable instrument; or a person who otherwise has a legitimate business need for the information in connection with a business transaction initiated by the individual; for the purpose of preventing or investigating potential fraud or theft of identity, reviewing the account, collecting the financial obligation owing for the account, contract, or negotiable instrument, or conducting the business transaction.

b. A subsidiary, affiliate, or agent of a person specified in subd. 1. a.

c. An assignee of a financial obligation owing by the individual to a person specified in subd. 1. a.

d. A prospective assignee of a financial obligation owing by the individual to a person specified in subd. 1. a. in conjunction with the proposed purchase of the financial obligation.

2. For purposes of subd. 1. a., “reviewing the account” includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom the consumer reporting agency has released the consumer report during the time period authorized by the individual under sub. (4).

(c) Any state or local agency, law enforcement agency, court, or private collection agency acting pursuant to a court order, warrant, or subpoena.

(d) A child support agency acting pursuant to 42 USC 651-669b.

(e) The state or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

(f) The use of credit information for the purposes of prescreening as provided under 15 USC 1681b (c).

(g) A person administering a credit file monitoring subscription service or similar service to which the individual has subscribed.

(h) A person for the purpose of providing an individual with a copy of his or her consumer report upon the individual’s request.

(i) An insurer authorized to do business in this state that uses the consumer report in connection with the underwriting of insurance involving the individual. For purposes of this paragraph, “underwriting” consists of the activities described in the Federal Trade Commission’s interpretation of 15 USC 1681b (a) (3) (C) in 16 CFR Part 600, App. A.

(j) A person who intends to use the information for employment purposes.

(9) FEES. (a) Except as provided in par. (b), a consumer reporting agency may charge an individual a fee of no more than \$10 each time that the individual requests a security freeze under sub. (2), authorizes release of a consumer report under sub. (4), or requests removal of a security freeze under sub. (6).

(b) A consumer reporting agency may not charge a fee to an individual who submits evidence satisfactory to the consumer reporting agency that the individual made a report to a law enforcement agency under s. 943.201 (4) regarding the individual’s personal identifying information or a personal identifying document. A copy of a law enforcement agency’s report under s. 943.201 (4) is considered satisfactory evidence for purposes of this paragraph.

(10) INFORMATION CHANGES. (a) Except as provided in par. (b), if a consumer reporting agency includes a security freeze in an individual’s consumer report, the consumer reporting agency may not change the individual’s name, date of birth, social security number, or address in the report unless, within 30 business days of changing the information, the consumer reporting agency sends written notice of the change to the individual. If the notice concerns a change of address, the consumer reporting agency shall send the notice to both the new and former address.

(b) Notice is not required under par. (a) for changing abbreviations for names or streets, correcting spelling, transposing numbers, or making other technical changes.

(11) NOTICES. Whenever a consumer reporting agency is required to provide an individual with a notice under 15 USC 1681g regarding consumer rights under the federal credit reporting law, the consumer reporting agency shall also provide the individual with the following notice:

“Wisconsin Consumers Have the Right to Obtain a Security Freeze.

You have a right to include a “security freeze” with your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report in connection with a credit transaction without your express authorization. A security freeze must be requested in writing by certified mail or by any other means provided by a consumer reporting agency. The security freeze is designed to prevent an extension of credit, such as a loan, from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a loan, credit, mortgage, or Internet credit card transaction, including an extension of credit at point of sale.

When you request a security freeze for your credit report, you will be provided a personal identification number or password to use if you choose to remove the security freeze from your credit report or authorize the release of your credit report for a period of time after the security freeze is in place. To provide that authorization you must contact the consumer reporting agency and provide all of the following:

- (1) The personal identification number or password.
- (2) Proper identification to verify your identity.
- (3) The period of time for which the report shall be made available.
- (4) Payment of the appropriate fee.

A security freeze does not apply to a person or its affiliates, or collection agencies acting on behalf of a person, with which you have an existing account, that requests information in your credit report for the pur-

poses of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

Unless you are a victim of identity theft with a police report to verify the crime, a consumer reporting agency has the right to charge you no more than \$10 to include a security freeze with your credit report, no more than \$10 to authorize release of a report that includes a security freeze, and no more than \$10 to remove a security freeze from your credit report.”

(12) RULES. The department shall promulgate rules specifying what constitutes proper identification for purposes of subs. (2) (a) 2., (4) (a) 2., and (6) (a) 2. The rules shall be consistent with any requirements under federal credit reporting law pertaining to proper identification.

(13) DAMAGES. (a) Any person who obtains a con-

sumer report from a consumer reporting agency, requests a consumer reporting agency to include or remove a security freeze in a consumer report, or authorizes a consumer reporting agency to release a consumer report that includes a security freeze, under false pretenses or in knowing violation of, or in an attempt to knowingly violate, this section or federal law, shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

(b) A person who fails to comply with this section is liable for any actual damages sustained by an individual as a result of the failure and, notwithstanding s. 814.04 (1), the costs of the action, including reasonable attorney fees.

SECTION 2. Effective date.

(1) This act takes effect on January 1, 2007.
