

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 912**

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

Analysis by the Legislative Reference Bureau

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

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

4 **100.54 Access to credit reports. (1) DEFINITIONS.** In this section:

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

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

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

9 (d) “Reseller” means a consumer reporting agency that acts only as a reseller
10 of credit information by assembling and merging information contained in a

1 database of another consumer reporting agency or multiple consumer reporting
2 agencies, and does not maintain a permanent database of credit information from
3 which new consumer reports are produced.

4 (e) “Security freeze” means a notice included with an individual’s consumer
5 report that indicates that releases of the consumer report are subject to this section.

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

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

12 2. Provides the consumer reporting agency with proper identification.

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

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

19 1. Confirms that a security freeze is included with the individual’s consumer
20 report.

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

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

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

1 1. A reseller, except that if a reseller obtains from another consumer reporting
2 agency an individual's consumer report that includes a security freeze, the reseller
3 shall include the security freeze with any consumer report regarding the individual
4 that the reseller maintains.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **(7) THIRD PARTIES.** (a) If a 3rd party requests access to an individual's consumer
10 report that includes a security freeze, the request is made in connection with the
11 individual's application for an extension of credit, and the consumer reporting
12 agency is prohibited under this section from releasing the report to the 3rd party, the
13 3rd party may treat the individual's application as incomplete.

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

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

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

1 account, collecting the financial obligation owing for the account, contract, or
2 negotiable instrument, or conducting the business transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) The personal identification number or password.

1 (2) Proper identification to verify your identity.

2 (3) The period of time for which the report shall be made available.

3 (4) Payment of the appropriate fee.

4 A security freeze does not apply to a person or its affiliates, or collection
5 agencies acting on behalf of a person, with which you have an existing account, that
6 requests information in your credit report for the purposes of reviewing or collecting
7 the account. Reviewing the account includes activities related to account
8 maintenance, monitoring, credit line increases, and account upgrades and
9 enhancements.

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

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

19 **(13) DAMAGES.** (a) Any person who obtains a consumer report from a consumer
20 reporting agency, requests a consumer reporting agency to include or remove a
21 security freeze in a consumer report, or authorizes a consumer reporting agency to
22 release a consumer report that includes a security freeze, under false pretenses or
23 in knowing violation of, or in an attempt to knowingly violate, this section or federal
24 law, shall be liable to the consumer reporting agency for actual damages sustained
25 by the consumer reporting agency or \$1,000, whichever is greater.

