

**2005 DRAFTING REQUEST**

**Bill**

Received: **07/14/2005**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeff Fitzgerald (608) 266-2540**

By/Representing: **Jim Bender**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Fitzgerald@legis.state.wi.us**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Access to consumer credit reports

---

**Instructions:**

See Attached

---

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|------------------------|------------------------|----------------|------------------------|-----------------|-----------------|
| /?           | mkunkel<br>07/14/2005 | lkunkel<br>07/18/2005  |                        | _____          |                        |                 | State           |
| /1           | mkunkel<br>11/17/2005 | kfollett<br>11/17/2005 | pgreensl<br>07/19/2005 | _____          | sbasford<br>07/19/2005 |                 | State           |
| /2           | mkunkel<br>01/09/2006 | jdyer<br>01/09/2006    | jfrantze<br>11/17/2005 | _____          | lnorthro<br>11/17/2005 |                 | State           |
| /3           |                       |                        | pgreensl               | _____          | sbasford               | mbarman         |                 |

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|              |                |                 | 01/09/2006 _____ |                | 01/09/2006       | 01/11/2006      |                 |

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01/09/2006 \_\_\_\_\_ 01/09/2006

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| /2           |                       | 13 1/9 jld             | jfrantze<br>11/17/2005<br>1/9<br>P8 | 1/9<br>P8TR    | lnorthro<br>11/17/2005 |                 |                 |

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FE Sent For:

*Jb 11/17* *J/Ch 11/17*  
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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /?           | mkunkel        | /ilmk 7/18      |              | _____          |                  |                 |                 |

FE Sent For:

<END>



## Kunkel, Mark

---

**From:** Bender, Jim  
**Sent:** Wednesday, July 13, 2005 10:42 AM  
**To:** Kunkel, Mark  
**Subject:** RE: Credit Freeze

Mark,

How is the credit freeze coming along?

Jim

---

**From:** Kunkel, Mark  
**Sent:** Tuesday, June 28, 2005 10:24 AM  
**To:** Bender, Jim  
**Subject:** RE: Credit Freeze

Jim:

Got your message. Apologies for not confirming it sooner. I'm a bit busy with some budget stuff right now, but I'll try to work on it a bit later this week.

-- Mark

-----Original Message-----

**From:** Bender, Jim  
**Sent:** Tuesday, June 28, 2005 9:09 AM  
**To:** Kunkel, Mark  
**Subject:** Credit Freeze

Just checking to make sure you got my message regarding potential legislation on freezing of credit.

**James E. Bender**  
Communications Director  
Office of Rep. Jeff Fitzgerald  
Assistant Majority Leader  
(608) 266-2540

Buy Thurs.  
7/21

D-NOTE

KEEP  
- 336411

RM  
NOT  
RUN

2005 BILL

ReGen

✓

- 1 AN ACT *to create* 138.25 of the statutes; **relating to:** allowing individuals to
- 2 restrict release of credit reports.

***Analysis by the Legislative Reference Bureau***

This bill allows an individual to prohibit, with certain exceptions, a credit reporting agency from releasing the individual's credit report to third parties without the individual's authorization. Under the bill, if an individual provides the proper written notice by certified mail to a credit reporting agency, then, no later than five business days after receipt of the notice, the credit reporting agency may not, with certain exceptions, release the individual's credit report to third parties without first obtaining the individual's authorization. The bill allows a credit reporting agency to charge an individual a fee of no more than \$10 for making such a notice. The bill also requires a credit reporting agency, within ten business days after receipt of a notice, to provide an individual a unique personal identification number or password for authorizing the release of credit reports as described below.

As an alternative to giving prior authorization, the bill allows an individual who provides the notice described above to require the credit reporting agency to release a credit report to a third party identified by the individual. In addition, the bill allows an individual to require a credit reporting agency to release credit reports, for a period of time specified by the individual, to persons eligible to obtain them under federal law. An individual must provide the identification number or password described above to require release of a credit report under such circumstances. The bill allows a credit reporting agency to charge a fee of no more than \$12 each time the individual requires release to a third party identified by the

**BILL**

individual, and a fee of no more than \$10 each time the individual requires release for a specified period of time. Under the bill, a credit reporting agency must establish procedures for releasing credit reports under such circumstances in an expedited manner and must disclose the procedures to individuals who provide the notice described above.

The bill contains exceptions to the prohibition on releasing credit reports without an individual's prior authorization. If an individual makes a material misrepresentation of fact in the notice describe above, the credit reporting agency may release a credit report, but only if the credit reporting agency first notifies the individual in writing about the misrepresentation.

Also, the bill allows a credit reporting agency to release a credit report to any of the following without the prior authorization of an individual who makes the notice described above: 1) a court, state or local governmental agency, or law enforcement agency; 2) a private collection agency acting pursuant to a court order, warrant, or subpoena; 3) the Department of Workforce Development (DWD) or a county child support agency for the purpose of enforcing support or maintenance obligations; 4) DWD or the Department of Health and Family Services for the purpose of investigating suspected fraudulent activity regarding specified benefits programs; 5) the Department of Revenue for the purpose of collecting delinquent taxes; 6) a person administering a credit file monitoring service to which the individual has subscribed; or 7) a person who provides the individual with a copy of a credit report at the individual's request. In addition, a credit reporting agency may release reports for the purpose of prescreening that is allowed under the federal Fair Credit Reporting Act. (Prescreening is a process in which credit reporting agencies compile lists of consumers who meet specific criteria and provide the lists to third parties for credit or insurance solicitation purposes.)

The bill also does all of the following:

1. Allows an individual to rescind a notice described above and allows a credit reporting agency to charge a fee of no more than \$10 for rescinding a notice.
2. Allows a credit reporting agency to advise a third party that the credit reporting agency must obtain an individual's authorization before releasing a credit report to the third party.
3. Allows a third party to treat an individual's application for credit or any other purpose as incomplete if the bill prohibits a credit reporting agency from releasing the individual's credit report to the third party.
4. Prohibits credit reporting agencies from charging all of the fees described above to victims of identity theft.

Finally, the bill requires the Division of Banking in the Department of Financial Institutions to enforce the bill's requirements.

✓ For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

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

**BILL**

1           **SECTION 1.** 138.25 of the statutes is created to read:

2           **138.25 Access to credit reports. (1) DEFINITIONS.** In this section:

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

5           (b) “Credit report” means means any written, oral, or other communication of  
6 any information by a credit reporting agency bearing on a individual’s credit  
7 worthiness, credit standing, or credit capacity, which is used or is expected to be used,  
8 or collected in whole or in part, for a purpose specified in 15 USC 1681b or for the  
9 purpose of serving as a factor in establishing the individual’s eligibility for any of the  
10 following:

- 11           1. Credit to be used primarily for personal, family, or household purposes.
- 12           2. Employment, promotion, reassignment, or retention as an employee.
- 13           3. Rental of a residential dwelling unit.

14           (c) “Credit reporting agency” means any person who, for fees, dues, or other  
15 compensation, or on a cooperative nonprofit basis, regularly engages in whole or in  
16 part in the business of assembling or evaluating credit or other information on  
17 individuals for the purpose of furnishing credit reports to 3rd parties, but does not  
18 include any governmental agency whose records are maintained primarily for traffic  
19 safety, law enforcement, or licensing purposes.

20           (d) “Eligible user” means a person who is allowed under federal law to obtain  
21 an individual’s credit report.

22           **(2) RESTRICTION OF ACCESS.** (a) *Notice.* 1. If an individual provides written  
23 notice by certified mail to a credit reporting agency to restrict access to the  
24 individual’s credit report and pays the fee, if any, allowed under sub. (5) (a) 1., then,  
25 no later than 5 business days after receipt of the notice, the credit reporting agency

**BILL**

1 may not, except as provided in sub. (3), release the credit report, or any information  
2 included in the credit report, to a 3rd party without the individual's prior  
3 authorization. This subdivision does not prohibit a credit reporting agency from  
4 advising a 3rd party that an individual has provided a notice under this subdivision  
5 and that the credit reporting agency must obtain the individual's authorization  
6 before releasing the individual's credit report.

7 2. No later than 10 business days after a credit reporting agency's receipt of an  
8 individual's notice under subd. 1., the credit reporting agency shall provide the  
9 individual with a unique personal identification number or password for the  
10 individual to authorize release of the individual's credit report as described in par.  
11 (b).

12 (b) *Access authorization.* 1. An individual who has provided notice under par.  
13 (a) 1. to a credit reporting agency may require the credit reporting agency to release  
14 the individual's credit report to a 3rd party upon the 3rd party's request, or to any  
15 eligible user who requests the credit report during a specified period of time, if the  
16 individual provides the credit reporting agency with the unique personal  
17 identification number or password described in par. (a) 2., identifies the 3rd party or  
18 specifies the period of time, and pays the fee, if any, allowed under sub. (5) (a) 1. or  
19 2.

20 2. A credit reporting agency shall establish procedures for individuals to  
21 provide the information required under subd. 1. for releasing credit reports and for  
22 the credit reporting agency to release the credit reports in an expedited manner. A  
23 credit reporting agency shall disclose the procedures to individuals who provide  
24 notice under par. (a) 1.

**BILL**

1           **(3) EXCEPTIONS.** (a) A credit reporting agency may release to 3rd parties the  
2 credit report of an individual who provides notice under sub. (2) (a) 1. if any of the  
3 following apply:

4           1. The individual requires the credit reporting agency to release the credit  
5 report under sub. (2) (b).

6           2. The individual provides the credit reporting agency a subsequent written  
7 notice by certified mail that rescinds the notice provided under sub. (2) (a) 1.,  
8 includes with the notice the unique personal identification number or password  
9 described in sub. (2) (a) 2., and pays the fee, if any, allowed under sub. (5) (a) 1. A  
10 credit reporting agency shall establish procedures for responding to such subsequent  
11 notices in an expedited manner.

12           3. The individual makes a material misrepresentation of fact in a notice under  
13 sub. (2) (a) 1., provided that the credit reporting agency notifies the individual in  
14 writing about the misrepresentation before the credit reporting agency releases the  
15 credit report to 3rd parties.

16           (b) This section does not apply to the credit reports of an individual that a credit  
17 reporting agency releases to, or for, any of the following:

18           1. A court, state or local governmental agency, or law enforcement agency.

19           2. A private collection agency acting pursuant to a court order, warrant, or  
20 subpoena.

21           3. The department of workforce development or a county child support agency  
22 for the purpose of enforcing support or maintenance obligations owed by the  
23 individual.

24           4. The department of health and family services or the department of workforce  
25 development for the purpose of investigating suspected fraudulent activity

**BILL**

1 regarding the Wisconsin works program under ss. 49.141 to 49.161, medical  
2 assistance under subch. IV of ch. 49, food stamp benefits under the food stamp  
3 program under 7 USC 2011 to 2036, supplemental security income payments under  
4 s. 49.77, payments for the support of children of supplemental security income  
5 recipients under s. 49.775, or health care benefits under the Badger Care health care  
6 program under s. 49.665.

7 5. The department of revenue for the purpose of collecting delinquent taxes.

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

10 7. A person administering a credit file monitoring subscription service to which  
11 the individual has subscribed.

12 8. A person for the purpose of providing an individual with a copy of his or her  
13 credit report upon the individual's request.

14 **(4) THIRD PARTIES.** If a 3rd party requests access to a credit report that a credit  
15 reporting agency may not release to the 3rd party under this section, and the 3rd  
16 party's request is in connection with the individual's application to the 3rd party for  
17 credit or any other purpose, the 3rd party may treat the application as incomplete.

18 **(5) FEES.** (a) Except as provided in par. (b), a credit reporting agency may  
19 charge any of the following to an individual:

20 1. A fee of no more than \$10 each time that the individual provides notice under  
21 sub. (2) (a) 1. or (3) (a) 2. or requires the release of credit reports during a specified  
22 period of time under sub. (2) (b) 1.

23 2. A fee of no more than \$12 each time that the individual requires the releases  
24 of credit reports to a person identified under sub. (2) (b) 1.

**BILL**

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

7           **(6) ENFORCEMENT.** The division of banking shall enforce this section.

8           **SECTION 2. Effective date.**

9           (1) This act takes effect on the first day of the 4th month beginning after  
10 publication.

11

(END) ✓





**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-24731dt

MDK:lmk:pg

June 14, 2005

(date)

9  
KOP-3364/1dn

Rep. ~~Kreuser~~ Fitzgerald

Please review this bill to make sure it achieves your intent. In particular, please note the following about this bill:

1. The bill is based on a California law regarding "security freezes." See Cal. Civ. Code s. 1785.11.2. However, I don't think it's necessary to use the term "security freeze" to accomplish your intent.
2. Are the provisions allowing credit reporting agencies to charge fees okay? The fee amounts are identical to the fees allowed under the California law. However, I do not know the rationale behind the amounts. Different amounts might be appropriate for Wisconsin, but I'm not sure. Perhaps DFI can provide some input on this issue.
3. The bill requires DFI's Division of Banking to enforce the bill. Is that okay? Also, you might want to get DFI's input on whether any additional language is necessary for enforcement.
4. The bill has a delayed effective date of approximately 3 months to give credit reporting agencies time to change their procedures to comply with the bill. Is that okay?
5. This bill might be preempted by federal law. Arguments can be made for and against preemption, and I'm not sure how a court would decide the issue. The federal Fair Credit Reporting Act provides that state laws that are inconsistent with the federal act are preempted, but only to the extent of the inconsistency. See 15 USC 1681t(a). On one hand, the bill is inconsistent with the federal act because it allows individuals to prohibit the release of credit reports to persons who are otherwise allowed access to the reports under federal law. On the other hand, the bill is more protective of consumers than the federal law, and some courts have held that state laws that are more protective are not inconsistent with the federal act. See generally, A. Rodriguez, Fair Credit Reporting (Boston, MA: National Consumer Law Center, 2002) at s. 10.4.3. Please let me know whether you want me to look further into this issue.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3364/1dn  
MDK:lmk:pg

July 18, 2005

Rep. Fitzgerald:

Please review this bill to make sure it achieves your intent. In particular, please note the following about this bill:

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Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

## Kunkel, Mark

---

**From:** Northrop, Lori  
**Sent:** Thursday, November 03, 2005 12:15 PM  
**To:** Kunkel, Mark  
**Subject:** FW: Message for Mark Kunkel

**Attachments:** WI LRB 3664 - Substitute.doc

---

**From:** Bender, Jim  
**Sent:** Thursday, November 03, 2005 12:12 PM  
**To:** LRB.Legal  
**Subject:** Message for Mark Kunkel

Credit Freeze - LRB 3364.

The attached word document is from the credit association and has some definitional changes that match federal language better. I would consider this the dominant language over the latter changes.

The pdf document (that I will get you shortly) has some proposed changes from the telecom industry.

They wanted "unaffiliated" added on line 17 page 3 to clarify that the Telco isn't a credit reporting agency under this law simply because we provide credit reporting agencies to their affiliates. *① → but see change to fed l.*

Also on Page 5, line 19-20 they broadened the exemption for private collection agencies. They are afraid that a consumer with an unpaid bill could freeze their credit and avoid paying. My concern is that we don't want open up the definition of credit agency too far so a criminal outfit could open ACME Credit Services with a PO box usurp the intent. *②*

In Colorado - Senate bill 05-137 - ID theft - Page 7 lines 2-5, they make reference to Insurance companies being able to access credit reports for the purposes of writing policies. We have two issues here, the consumer could simply give the Insurance company the unique identifier which would allow them access. However, we could also exempt Insurance co's - but I would want a clearer definition of Insurance company - say those registered with the state - to avoid ACME Insurance from popping up again. *③ - see exempt - for insur  
bill to do*

Let me know if you have any questions.

This bill is now being pushed for a quick turn around - a speedy re-draft would be appreciated. *Big in this  
state*



WI LRB 3664 -  
Substitute.doc (...)

Thank you -

**James E. Bender**  
Communications Director  
Office of Rep. Jeff Fitzgerald  
Assistant Majority Leader  
(608) 266-2540

(j) A person requesting the consumer's credit report for use by an insurance business to set a rate, adjust a rate, or underwrite for insurance purposes pursuant to section 12-14.3-103;

(k) A public pension plan acting to determine the consumer's eligibility for plan benefits or payments authorized by law or to investigate fraud;

(l) A person conducting a pre-sentence investigation in a criminal matter or a probation officer using this information for supervision of an offender;

(m) A collections investigator or other person engaged in the collecting of fees, fines, or restitution assessed in a court proceeding; or

(n) A law enforcement agency or its agents acting to investigate a crime or conducting a criminal background check.

12-14.7-103. Notice of rights. (1) At any time that a consumer is required to receive a summary of rights required under section 609 of the "Fair Credit Reporting Act" or under state law, the following notice shall be included:

**State Consumers Have the Right to Obtain a Security Freeze.**

You may obtain a security freeze on your credit report at no charge to protect your privacy and ensure that credit is not granted in your name without your knowledge. You have a right to place a security freeze on your credit report pursuant to state law.

The security freeze will prohibit a consumer reporting agency from releasing any information in your credit report without your express authorization or approval.

The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. When you place a security freeze on your credit report, within five business days you will be provided a personal identification number or password to use if you choose to remove the security freeze on your credit report or to temporarily authorize the release of your credit report to a specific party or parties or 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: The unique personal identification number or password provided by the consumer reporting agency; proper identification to verify your identity; and the proper information regarding the third

**SUBSTITUTE FOR WISCONSIN LRB 3364/1**

SECTION 1. 138.25 of the statutes is created to read:

**138.25. 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 reporting agency" means a consumer reporting agency as defined in 15 U.S.C. Sec. 1681a(f).

(c) "Consumer report" means a consumer reporting agency as defined in 15 U.S.C. Sec. 1681a(d).

(d) "Proper identification" means proper identification as defined in 15 U.S.C. 1681h(a)(1).

(e) "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit report or score, relating to the extension of credit

*NCW*

**COMMENTS:**

- The definitions "consumer report" and "credit report" are terms of art that has been in place at the federal level since 1970. Maintaining consistency and uniformity in the definition between Wisconsin law and federal law is important to consumers, businesses, and law enforcement.
- The definition of "proper identification" assists businesses, consumers, and law enforcement with guidance.
- The definition of "security freeze" follows California law and assists businesses, consumers, and law enforcement with guidance, but it is limited only to the extension of credit instead of all the other purposes that a credit report is used for such as insurance, employment, and rental housing. Thus the freeze prevents the extension of credit with a specific file, but the consumer does not need to lift the freeze when applying for auto insurance, a job or an apartment.

*Subst. Provision in defn.?*

(2) RESTRICTION OF ACCESS. (a) Notice. 1. A consumer may request that a security freeze be placed on his or her credit report by sending a request in writing by certified mail to a consumer reporting agency at an address designated by the consumer reporting agency to receive such requests.

2. A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving from the consumer:

- (i) A written request described in par. (a) 1;
- (ii) Proper identification; and
- (iii) Payment of a fee, if applicable, under sub (5).

3. The consumer reporting agency shall send a written confirmation of the placement of the security freeze to the consumer within 10 business days. Upon placing the security freeze on the consumer's credit report, the consumer reporting agency shall provide the consumer with a unique personal identification number or password, or similar device to be used by the consumer when providing authorization for the release of his or her credit report for a specific period of time.

4. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a period of time while the freeze is in place.

(b) *Access authorization; removal.* 1 If the consumer wishes to allow his or her credit report to be accessed for a specific period of time while a freeze is in place, he or she shall contact the consumer reporting agency using a point of contact designated by the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(i) Proper identification;

(ii) The unique personal identification number or password provided by the consumer reporting agency pursuant to par. (a) 3;

(iii) The proper information regarding the time period for which the report shall be available to users of the credit report; and

(iv) A fee, if applicable, under sub xxx.

2. A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report pursuant to para. (b) 1, shall comply with the request no later than three business days after receiving the request.

3. A consumer reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to par. (b) 1 in an expedited manner.

4. A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

(a) Upon consumer request, pursuant to par. (b) 1 or (a) 10.

(b) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this paragraph, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

5. If a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit, and the consumer does not allow his or her credit report to be accessed for that period of time, the third party may treat the application as

incomplete.

6. A security freeze shall remain in place until the consumer requests, using a point of contact designated by the consumer reporting agency, that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides:

- (a) Proper identification;
- (b) The unique personal identification number or password or similar device provided by the consumer reporting agency pursuant to par. (a) 3;
- (c) A fee, if applicable under sub (5).

**COMMENTS:**

- This substitute offers more information to consumers about temporary lifting and removing freezes.
- This substitute provides a clear point of contact for consumers to go to request a freeze, a temporary lift of a freeze, or removal of the freeze.
- This substitute allows a user to treat an application as incomplete if the credit report is frozen.
- The experience associated with temporarily lifting a freeze for a specific user has been problematic for businesses and consumers. For example, a consumer who requests a temporary lift for Sears may be turned down for credit since the credit report may be pulled by Citi, which administers the card operations for Sears. Similarly, consumers who request a temporary lift for lendingtree.com may also be turned down since the credit report pull may come from one of a thousand or more financial institutions and not lendingtree.com.

**(3) EXCEPTIONS.** (a) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

1. A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use.

3. Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena.

4. A child support agency acting pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.).

5. 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 provided such responsibilities are consistent with a permissible purpose under 15 U.S.C. Sec. 1681b.

6. The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

7. Any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed.

8. Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

9. Any person using the information in connection with the underwriting of insurance.

**COMMENTS:**

- This list of exemptions follows California law.

(4) **THIRD PARTIES.** This act does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the individual's credit report.

(5) **FEES.** Except as provided in par. (b), a consumer reporting agency may charge any of the following to an individual:

(a) A fee of not more than \$10 each time that the individual provides notice under sub. (2)(a) 1. to place a freeze, (2)(b) 1. to temporarily lift a freeze, or (2)(b) 4 to remove a freeze.

(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 the law enforcement agency's report under s. 943.201(4) is considered satisfactory evidence for purposes of this paragraph.

(6) **INFORMATION CHANGES.** If a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within 30 days of the change being posted to the consumer's file: name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street



abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

**COMMENTS:**

- This subsection follows California law and provides stronger consumer protection than the LRB since there was no such provision in the LRB.

**(7) ENTITIES NOT REQUIRED TO PLACE A FREEZE.** The following entities are not required to place a security freeze on a credit report:

1. A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency or multiple consumer credit reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency.

2. 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 deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

**COMMENTS:**

- This subsection follows California law and all other 11 state file freeze laws.
- Resellers are not original sources of the credit data and thus freezing information with a reseller does not achieve the consumer protection desires – one must freeze a file with a repository of data, not a reseller.
- Check services databases are negative databases and freezing these files will only add to check fraud if a merchant cannot properly authenticate a check.

**(8) CONSUMER NOTICE.** At any time a consumer is required to receive a summary of rights required under 15 U.S.C. Sec. 1681g, the following notice shall be included:

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

You have a right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail. The security freeze is designed to prevent

credit, loans, and services 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 new loan, credit, mortgage, investment, cellular phone, utilities, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a period of time after the 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 proper information regarding the period of time for which the report shall be available.
- (4) The payment of the appropriate fee.

A consumer reporting agency must authorize the release of your credit report no later than three business days after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes 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 crimes, a consumer reporting agency has the right to charge you up to \$10 to place a freeze on your credit report, up to \$10 to temporarily lift a freeze on your credit report, depending on the circumstances, and up to \$10 to remove a freeze from your credit report.

**COMMENTS:**

- This subsection follows California law and offers more notice to consumers about their rights.

**(9) ENFORCEMENT.** The division of banking shall enforce this section.]

**(10) FREEZES; FALSE PRETENSES.** Any person who obtains a consumer report, requests a security freeze, or requests the temporary lift or removal of a security freeze from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer

reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

**SECTION 2. Effective date.**

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

**(END)**

**Kunkel, Mark**

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**From:** Bender, Jim  
**Sent:** Thursday, November 03, 2005 12:26 PM  
**To:** Kunkel, Mark  
**Subject:** FW: LRB 3364 (Fitzgerald) Credit Freeze  
**Attachments:** credit freeze.pdf

Here it is...

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**From:** JULIUS, GERALD (AIT) [mailto:gj1583@sbc.com]  
**Sent:** Thursday, November 03, 2005 12:17 PM  
**To:** Bender, Jim  
**Subject:** FW: LRB 3364 (Fitzgerald) Credit Freeze

Jim,

Thank you for taking the time to meet with me earlier this week regarding Representative Fitzgerald's Credit Freeze legislation.

Per our conversation re the definition of private collection agency, I am providing a proposed change to the exemption of private collection agencies. In the attached, you will see that we added a definition for "private collection agency." It is a cross-reference to an existing statutory definition, which I reprint for you below:

**218.04 Collection agencies. (1) DEFINITIONS.** The following terms, as used in this section, shall have the meaning stated, unless the context requires a different meaning:

(a) "Collection agency" means any person engaging in the business of collecting or receiving for payment for others of any account, bill or other indebtedness. It shall not include attorneys at law authorized to practice in this state and resident herein, banks, express companies, state savings banks, state savings and loan associations, insurers and their agents, trust companies, or professional men's associations collecting accounts for its members on a nonprofit basis, where such members are required by law to have a license, diploma or permit to practice or follow their profession, real estate brokers and real estate salespersons. . . .

(f) "Person" includes individuals, partnerships, associations, corporations and limited liability companies.

The proposed edit should serve Representative Fitzgerald's intent to ensure the exemption for private collection agencies is available only to legitimate collection agencies and does not become a loophole for identity thieves by removing the limiting language "acting pursuant to a court order, warrant, or subpoena" and replacing it with "or its affiliates acting on behalf of the person or entity with which the individual has an existing or former account that requests information in the individual's credit report for purposes of reviewing or collecting on the account."

Once again Jim, thank you for taking the time to meet with me on October 18 regarding our proposed edits to the Credit Freeze draft. Should you have any questions regarding the language I have sent to your attention, please do not hesitate to contact me by e-mail or at 608-692-2071.

Buddy Julius  
SBC Wisconsin  
Director of Government Affairs

11/03/2005

(O) 608-282-7874  
(C) 608-692-2071

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**From:** Rep.Fitzgerald  
**Sent:** Thursday, August 18, 2005 3:52 PM  
**To:** \*Legislative Assembly Republicans; \*Legislative Assembly Democrats; \*Legislative Senate Republicans; \*Legislative Senate Democrats  
**Subject:** Fitzgerald Co-sponsorship LRB 3364/Credit Freeze

**TO:** Legislative Colleagues  
**FROM:** Representative Jeff Fitzgerald  
**DATE:** August 18, 2005  
**RE:** Co-Sponsorship of LRB 3364: relating to: allowing individuals to restrict release of credit reports

I am introducing legislation that will allow Wisconsin residents to freeze their credit reports. With the increasing dangers of ID theft, having the ability to freeze your credit report will prohibit anyone from opening credit in your name. Consumers will be able to notify the credit bureaus to freeze their reports. If at any time they need to open credit for themselves they can remove the freeze in a short period of time. This legislation will give consumers another tool in protecting their credit and identities.

If you wish to co-sponsor LRB 3364, please contact my office at 266-2540 no later than **Friday, September 9th**.

<<05-33641.pdf>>

***Analysis by the Legislative Reference Bureau***

This bill allows an individual to prohibit, with certain exceptions, a credit reporting agency from releasing the individual's credit report to third parties without the individual's authorization. Under the bill, if an individual provides the proper written notice by certified mail to a credit reporting agency, then, no later than five business days after receipt of the notice, the credit reporting agency may not, with certain exceptions, release the individual's credit report to third parties without first obtaining the individual's authorization. The bill allows a credit reporting agency to charge an individual a fee of no more than \$10 for making such a notice. The bill also requires a credit reporting agency, within ten business days after receipt of a notice, to provide an individual a unique personal identification number or password for authorizing the release of credit reports as described below.

As an alternative to giving prior authorization, the bill allows an individual who provides the notice described above to require the credit reporting agency to release a credit report to a third party identified by the individual. In addition, the bill allows an individual to require a credit reporting agency to release credit reports, for a period of time specified by the individual, to persons eligible to obtain them under federal law. An individual must provide the identification number or password described above to require release of a credit report under such circumstances. The bill allows a credit reporting agency to charge a fee of no more than \$12 each time the individual requires release to a third party identified by the individual, and a fee of no more than \$10 each time the individual requires release for a specified period of time. Under the bill, a credit reporting agency must establish procedures for releasing credit reports under such circumstances in an expedited manner and must disclose the procedures to individuals who provide the notice described above.

The bill contains exceptions to the prohibition on releasing credit reports without an individual's prior authorization. If an individual makes a material misrepresentation of fact in the notice describe above, the credit reporting agency may release a credit report, but only if the credit reporting agency first notifies the individual in writing about the misrepresentation.

Also, the bill allows a credit reporting agency to release a credit report to any of the following without the prior authorization of an individual who makes the notice described above: 1) a court, state or local governmental agency, or law enforcement agency; 2) a private collection agency acting pursuant to a court order, warrant, or subpoena; 3) the Department of Workforce

Development (DWD) or a county child support agency for the purpose of enforcing support or maintenance obligations; 4) DWD or the Department of Health and Family Services for the purpose of investigating suspected fraudulent activity regarding specified benefits programs; 5) the Department of Revenue for the purpose of collecting delinquent taxes; 6) a person administering a credit file monitoring service to which the individual has subscribed; or 7) a person who provides the individual with a copy of a credit report at the individual's request. In addition, a credit reporting agency may release reports for the purpose of prescreening that is allowed under the federal Fair Credit Reporting Act. (Prescreening is a process in which credit reporting agencies compile lists of consumers who meet specific criteria and provide the lists to third parties for credit or insurance solicitation purposes.)

The bill also does all of the following:

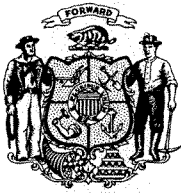
1. Allows an individual to rescind a notice described above and allows a credit reporting agency to charge a fee of no more than \$10 for rescinding a notice.
2. Allows a credit reporting agency to advise a third party that the credit reporting agency must obtain an individual's authorization before releasing a credit report to the third party.
3. Allows a third party to treat an individual's application for credit or any other purpose as incomplete if the bill prohibits a credit reporting agency from releasing the individual's credit report to the third party.
4. Prohibits credit reporting agencies from charging all of the fees described above to victims of identity theft.

Finally, the bill requires the Division of Banking in the Department of Financial Institutions to enforce the bill's requirements.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

----- End of Forwarded Message

----- End of Forwarded Message



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-3364/1

MDK: [unclear]

D-note

Kjf RM has been run

Today 9:30 PM

2005 BILL

Regen

and granting sub-matrix authority

1 AN ACT to create 138.25 of the statutes; relating to: allowing individuals to  
2 restrict release of credit reports.

**Analysis by the Legislative Reference Bureau**

This bill allows an individual to prohibit, with certain exceptions, a credit reporting agency from releasing the individual's credit report to third parties without the individual's authorization. Under the bill, if an individual provides the proper written notice by certified mail to a credit reporting agency, then, no later than five business days after receipt of the notice, the credit reporting agency may not, with certain exceptions, release the individual's credit report to third parties without first obtaining the individual's authorization. The bill allows a credit reporting agency to charge an individual a fee of no more than \$10 for making such a notice. The bill also requires a credit reporting agency, within ten business days after receipt of a notice, to provide an individual a unique personal identification number or password for authorizing the release of credit reports as described below.

As an alternative to giving prior authorization, the bill allows an individual who provides the notice described above to require the credit reporting agency to release a credit report to a third party identified by the individual. In addition, the bill allows an individual to require a credit reporting agency to release credit reports, for a period of time specified by the individual, to persons eligible to obtain them under federal law. An individual must provide the identification number or password described above to require release of a credit report under such circumstances. The bill allows a credit reporting agency to charge a fee of no more than \$12 each time the individual requires release to a third party identified by the

**BILL**

individual, and a fee of no more than \$10 each time the individual requires release for a specified period of time. Under the bill, a credit reporting agency must establish procedures for releasing credit reports under such circumstances in an expedited manner and must disclose the procedures to individuals who provide the notice described above.

The bill contains exceptions to the prohibition on releasing credit reports without an individual's prior authorization. If an individual makes a material misrepresentation of fact in the notice describe above, the credit reporting agency may release a credit report, but only if the credit reporting agency first notifies the individual in writing about the misrepresentation.

Also, the bill allows a credit reporting agency to release a credit report to any of the following without the prior authorization of an individual who makes the notice described above: 1) a court, state or local governmental agency, or law enforcement agency; 2) a private collection agency acting pursuant to a court order, warrant, or subpoena; 3) the Department of Workforce Development (DWD) or a county child support agency for the purpose of enforcing support or maintenance obligations; 4) DWD or the Department of Health and Family Services for the purpose of investigating suspected fraudulent activity regarding specified benefits programs; 5) the Department of Revenue for the purpose of collecting delinquent taxes; 6) a person administering a credit file monitoring service to which the individual has subscribed; or 7) a person who provides the individual with a copy of a credit report at the individual's request. In addition, a credit reporting agency may release reports for the purpose of prescreening that is allowed under the federal Fair Credit Reporting Act. (Prescreening is a process in which credit reporting agencies compile lists of consumers who meet specific criteria and provide the lists to third parties for credit or insurance solicitation purposes.)

The bill also does all of the following:

1. Allows an individual to rescind a notice described above and allows a credit reporting agency to charge a fee of no more than \$10 for rescinding a notice.
2. Allows a credit reporting agency to advise a third party that the credit reporting agency must obtain an individual's authorization before releasing a credit report to the third party.
3. Allows a third party to treat an individual's application for credit or any other purpose as incomplete if the bill prohibits a credit reporting agency from releasing the individual's credit report to the third party.
4. Prohibits credit reporting agencies from charging all of the fees described above to victims of identity theft.

Finally, the bill requires the Division of Banking in the Department of Financial Institutions to enforce the bill's requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

INSEOTA



## BILL

INSEAT B

1 ~~SECTION 1. 138.25 of the statutes is created to read:~~

2 **138.25 Access to credit reports. (1) DEFINITIONS.** In this section:

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

5 (b) "Credit report" means means any written, oral, or other communication of  
6 any information by a credit reporting agency bearing on a individual's credit  
7 worthiness, credit standing, or credit capacity, which is used or is expected to be used,  
8 or collected in whole or in part, for a purpose specified in 15 USC 1681b or for the  
9 purpose of serving as a factor in establishing the individual's eligibility for any of the  
10 following:

- 11 1. Credit to be used primarily for personal, family, or household purposes.
- 12 2. Employment, promotion, reassignment, or retention as an employee.
- 13 3. Rental of a residential dwelling unit.

14 (c) "Credit reporting agency" means any person who, for fees, dues, or other  
15 compensation, or on a cooperative nonprofit basis, regularly engages in whole or in  
16 part in the business of assembling or evaluating credit or other information on  
17 individuals for the purpose of furnishing credit reports to 3rd parties, but does not  
18 include any governmental agency whose records are maintained primarily for traffic  
19 safety, law enforcement, or licensing purposes.

20 (d) "Eligible user" means a person who is allowed under federal law to obtain  
21 an individual's credit report.

22 **(2) RESTRICTION OF ACCESS.** (a) *Notice.* 1. If an individual provides written  
23 notice by certified mail to a credit reporting agency to restrict access to the  
24 individual's credit report and pays the fee, if any, allowed under sub. (5) (a) 1., then,  
25 no later than 5 business days after receipt of the notice, the credit reporting agency

**BILL**

1 may not, except as provided in sub. (3), release the credit report, or any information  
2 included in the credit report, to a 3rd party without the individual's prior  
3 authorization. This subdivision does not prohibit a credit reporting agency from  
4 advising a 3rd party that an individual has provided a notice under this subdivision  
5 and that the credit reporting agency must obtain the individual's authorization  
6 before releasing the individual's credit report.

7 2. No later than 10 business days after a credit reporting agency's receipt of an  
8 individual's notice under subd. 1., the credit reporting agency shall provide the  
9 individual with a unique personal identification number or password for the  
10 individual to authorize release of the individual's credit report as described in par.  
11 (b).

12 (b) *Access authorization.* 1. An individual who has provided notice under par.  
13 (a) 1. to a credit reporting agency may require the credit reporting agency to release  
14 the individual's credit report to a 3rd party upon the 3rd party's request, or to any  
15 eligible user who requests the credit report during a specified period of time, if the  
16 individual provides the credit reporting agency with the unique personal  
17 identification number or password described in par. (a) 2., identifies the 3rd party or  
18 specifies the period of time, and pays the fee, if any, allowed under sub. (5) (a) 1. or  
19 2.

20 2. A credit reporting agency shall establish procedures for individuals to  
21 provide the information required under subd. 1. for releasing credit reports and for  
22 the credit reporting agency to release the credit reports in an expedited manner. A  
23 credit reporting agency shall disclose the procedures to individuals who provide  
24 notice under par. (a) 1.

**BILL**

1           (3) EXCEPTIONS. (a) A credit reporting agency may release to 3rd parties the  
2 credit report of an individual who provides notice under sub. (2) (a) 1. if any of the  
3 following apply:

4           1. The individual requires the credit reporting agency to release the credit  
5 report under sub. (2) (b).

6           2. The individual provides the credit reporting agency a subsequent written  
7 notice by certified mail that rescinds the notice provided under sub. (2) (a) 1.,  
8 includes with the notice the unique personal identification number or password  
9 described in sub. (2) (a) 2., and pays the fee, if any, allowed under sub. (5) (a) 1. A  
10 credit reporting agency shall establish procedures for responding to such subsequent  
11 notices in an expedited manner.

12           3. The individual makes a material misrepresentation of fact in a notice under  
13 sub. (2) (a) 1., provided that the credit reporting agency notifies the individual in  
14 writing about the misrepresentation before the credit reporting agency releases the  
15 credit report to 3rd parties.

16           (b) This section does not apply to the credit reports of an individual that a credit  
17 reporting agency releases to, or for, any of the following:

18           1. A court, state or local governmental agency, or law enforcement agency.

19           2. A private collection agency acting pursuant to a court order, warrant, or  
20 subpoena.

21           3. The department of workforce development or a county child support agency  
22 for the purpose of enforcing support or maintenance obligations owed by the  
23 individual.

24           4. The department of health and family services or the department of workforce  
25 development for the purpose of investigating suspected fraudulent activity

**BILL**

1 regarding the Wisconsin works program under ss. 49.141 to 49.161, medical  
2 assistance under subch. IV of ch. 49, food stamp benefits under the food stamp  
3 program under 7 USC 2011 to 2036, supplemental security income payments under  
4 s. 49.77, payments for the support of children of supplemental security income  
5 recipients under s. 49.775, or health care benefits under the Badger Care health care  
6 program under s. 49.665.

7 5. The department of revenue for the purpose of collecting delinquent taxes.

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

10 7. A person administering a credit file monitoring subscription service to which  
11 the individual has subscribed.

12 8. A person for the purpose of providing an individual with a copy of his or her  
13 credit report upon the individual's request.

14 (4) **THIRD PARTIES.** If a 3rd party requests access to a credit report that a credit  
15 reporting agency may not release to the 3rd party under this section, and the 3rd  
16 party's request is in connection with the individual's application to the 3rd party for  
17 credit or any other purpose, the 3rd party may treat the application as incomplete.

18 (5) **FEEES.** (a) Except as provided in par. (b), a credit reporting agency may  
19 charge any of the following to an individual:

20 1. A fee of no more than \$10 each time that the individual provides notice under  
21 sub. (2) (a) 1. or (3) (a) 2. or requires the release of credit reports during a specified  
22 period of time under sub. (2) (b) 1.

23 2. A fee of no more than \$12 each time that the individual requires the releases  
24 of credit reports to a person identified under sub. (2) (b) 1.

**BILL**

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

7 (6) ENFORCEMENT. The division of banking shall enforce this section.

8 **SECTION 2. Effective date.**

9 (1) This act takes effect on the first day of the 4th month beginning after  
10 publication.

11 (END)

*Stays*

*(End)*

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Subject to certain exceptions, this bill allows an individual to prohibit a consumer reporting agency from releasing the individual's consumer report for any purpose related to the extension of credit without the individual's prior authorization.

X Under the bill, "consumer report" has the same meaning as "consumer report" under the federal Fair Credit Reporting Act (FCRA), which defines "consumer report" as any written, oral, or other communication by a consumer reporting agency bearing on an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used as a factor in establishing the individual's eligibility for credit or insurance, employment, or any other purpose allowed under federal law. Although a "consumer report" includes communications for purposes other than extensions of credit, the bill allows an individual to prohibit releases of his or her consumer report only for extensions of credit. The bill does not allow an individual to prohibit releases for any of the other purpose<sup>s</sup> included in the definition of "consumer report."

X Also under the bill, "consumer reporting agency" has the same meaning as under the FCRA, which defines "consumer reporting agency" as any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on individuals for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

X The bill prohibits a consumer reporting agency from releasing an individual's report for an extension of credit if the report includes a "security freeze" which the bill defines as a notice indicating that release of the report is subject to the bill. If an individual makes a request by certified mail, provides proper identification, and, subject to certain exceptions, pays a fee, a consumer reporting agency must include a security freeze with the individual's consumer report no later than 5 business days after receiving the request. No later than 10 business days after including the security freeze, the consumer reporting agency must send the individual a notice confirming the security freeze. The notice must include a personal identification number (PIN), password, or other device for the individual to use to authorize release of the consumer report. Also, the notice must describe the procedures for an individual to authorize the release.

(ten) To authorize release of a consumer report that includes a security freeze, an individual must contact the consumer reporting agency, provide proper identification and the PIN, password, or other device described above, and specify the time period for which the consumer reporting agency is allowed to release the report. Subject to certain exceptions, the individual must also pay a fee to the consumer reporting agency. The bill requires a consumer reporting agency to release the consumer report for purposes of extensions of credit during the time period

specified by the individual, except that a consumer reporting agency is not required to release the report sooner than <sup>three</sup> 3 business days after the individual contacts the consumer reporting agency. However, a consumer reporting agency may, but is not required, to release a report sooner than 3 business days if the consumer reporting agency establishes procedures for individuals to contact the consumer reporting agency by telephone, facsimile, the Internet, or other electronic media.

X  
The bill contains exceptions to the above requirements. The following consumer reporting agencies are not required to include a security freeze with a consumer report: 1) check services or fraud prevention services companies; 2) deposit account information service companies; and 3) certain resellers of consumer credit information. However, if a reseller obtains a consumer report about an individual that includes a security freeze included by another consumer reporting agency, the reseller must include the security freeze in any consumer report regarding the individual that the reseller maintains.

X  
The bill also allows a consumer reporting agency to release an individual's consumer report that includes a security freeze to any of the following for the following purposes, even if the individual has not authorized release of the report: 1) certain persons with whom the individual has an account or contract or to whom the individual has issued a negotiable instrument, for the purpose of reviewing the account or collecting a financial obligation owing for the account, contract, or negotiable instrument; 2) subsidiaries, affiliates, agents, assignees, and prospective assignees of the foregoing persons; 3) state or local agencies, law enforcement agencies, courts, or private collection agencies acting pursuant to court orders, warrants, or subpoenas; 4) child support agencies acting to enforce child support obligations; 5) the state or its agents or assigns acting to investigate fraud or collect delinquent taxes or unpaid court orders, or to fulfill any other statutory responsibilities; 6) persons administering a credit file monitoring service to which the individual has subscribed; 7) persons who provide the individual with a copy of a consumer report at the individual's request; or 8) insurers authorized to do business in this state who use consumer reports for underwriting insurance.

In addition, if an individual has authorized release of a consumer report to a person during a time period specified by the individual, the consumer reporting agency may release the report to any subsidiary, affiliate, agent, assignee, and prospective assignee of that person. Also, a consumer reporting agency may release reports for the purpose of prescreening that is allowed under the FCRA. (Prescreening is a process in which consumer reporting agencies compile lists of consumers who meet specific criteria and provide the lists to third parties for credit or insurance solicitation purposes.)

The bill also does all of the following:

1. Requires a consumer reporting agency to remove security freezes upon an individual's request.
2. Allows a consumer reporting agency to release a consumer report if an individual made a material misrepresentation of fact regarding a security freeze. Before releasing a report, the consumer reporting agency must notify the individual about the misrepresentation.

3. Allows a consumer reporting agency to advise a third party that the consumer reporting agency must obtain an individual's authorization before releasing a consumer report to the third party.

4. Allows a third party to treat an individual's application for an extension of credit as incomplete if the bill prohibits a consumer reporting agency from releasing the individual's consumer report to the third party.

5. Allows a consumer reporting agency to charge specified fees to individuals who request security freezes, authorize the release of consumer reports that include security freezes, or request removal of security freezes. However, the bill prohibits a consumer reporting agency from charging fees to victims of identity theft.

6. If a consumer report includes a freeze, prohibits a consumer reporting agency from making changes to certain information in the report without providing written notice.

7. Allows a consumer reporting agency to collect damages from persons who knowingly violate the bill or federal credit reporting law or who take certain actions regarding consumer reports or security freezes under false pretenses.

8. Requires a consumer reporting agency to provide individuals with a notice describing their rights under the bill whenever the consumer reporting agency is required to provide a notice under the FCRA regarding consumer rights with respect to consumer reports.

Finally, the bill requires the Division of Banking in the Department of Financial Institutions (division) to enforce the bill's requirements. The bill also requires the division to promulgate rules regarding the "proper identification" that individuals must provide to consumer reporting agencies when requesting a security freeze or removal of a security freeze or authorizing release of consumer reports.