

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB912)

Received: **01/18/2006**

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: **CTS**

Submit via email: **YES**

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

Carbon copy (CC:) to: **anne.sappenfield@legis.state.wi.us**

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 01/19/2006	jdye 01/19/2006		_____			
/1			rschluet 01/20/2006	_____	Inorthro 01/20/2006		
/2	mkunkel 01/20/2006	jdye 01/20/2006	pgreensl 01/20/2006	_____	mbarman 01/20/2006	mbarman 01/20/2006	

FE Sent For:

01-23-2006
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<END>

see
attached

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Please
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- MOK*

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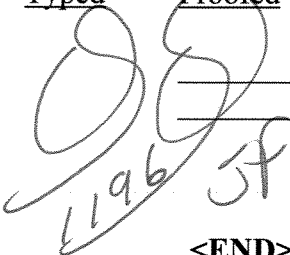
Access to consumer credit reports

Instructions:

See Attached

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Kunkel, Mark

From: Bender, Jim
Sent: Wednesday, January 18, 2006 3:56 PM
To: Kunkel, Mark
Cc: Sappenfield, Anne
Subject: AB 912 Amendment

Attachments: AB912 Amend.doc

Mark,

Here is a list of changes we want made to AB 912 (LRB3364/3). I am not sure if this can be a simple amendment or if a sub would be better. I guess we are leaning towards a sub. We need these changes ASAP as we are scheduling an executive session in the State Affairs Committee.

Thank you -

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



AB912 Amend.doc
(35 KB)

Page 4 line 9 - please omit the word "credit" so the term "consumer reporting agencies" is consistent.

Enforcement - we are removing the requirement for enforcement from DFI, Line 6 page 12.

d-NOTE
- REPT
RMig

They have no licensing authority and therefore could really not do anything. Instead we are going to add civil liability language that matches the Fed - Fair Credit act.

Basically - the following language should replace page 12 lines 11-17.

That language is here:

? d-NOTE

() Any person who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or \$1,000, whichever is greater.

() Any person who is negligent in failing to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of ~~for the~~ any actual damages sustained by the consumer as a result of the failure and ~~→ NWig~~

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12-17

(b) ~~in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.~~

There was also a concern raised by DATCP regarding this issue:

, including

The Department of Agriculture and Consumer Protection testified against the current provision regarding when a consumer reporting agency sends notification to a consumer to alert the consumer to changes being made to his or her credit report. LRB 3364/3, page 10, lines 12-13. The concern was regarding the language that allows a consumer reporting agency to send notification no later than 30 business days before or after a change to the report is made. My understanding of this concern was to tighten this provision.

NWig
8/14.04(1)

CA Law reads as outlined below:

1785.11.3. (a) If a security freeze is in place, a consumer credit 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.

In order to try to alleviate this issue, we suggest the following change in LRB 3364/3.

Page 10, lines 12-13, delete "no later than 30 business days before or after" and insert, "within 30 business days of".

The provision would then read as follows:

(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, ~~no later than 30 business days before or after~~ 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.

This will make Wisconsin's bill consistent with California and other state laws.

We would also like to add this line on page 5 line 2 (omit period):

OR BY MAKING A REQUEST DIRECTLY TO THE CONSUMER REPORTING AGENCY THROUGH A SECURE ELECTRONIC MAIL CONNECTION, IF AN ELECTRONIC MAIL CONNECTION IS PROVIDED BY THE CONSUMER REPORTING AGENCY.

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O-note
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2005 ASSEMBLY BILL 912

January 13, 2006 Introduced by Representatives J. FITZGERALD, DAVIS, M. WILLIAMS, NERISON, MOULTON, LOTHIAN, KERKMAN, HAHN, VAN ROY, MUSSER, AINSWORTH, FREESE, LEMAHIEU, HINES, VOS, WOOD, OTT, McCORMICK, KRAWCZYK, GOTTLIEB and ALBERS, cosponsored by Senators OLSEN, S. FITZGERALD, HARS DORF, LAZICH and ERENBACH. Referred to Committee on State Affairs.

Regen

substitute amendment amendment

- 1 AN ACT *to create* 138.25 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

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.

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 creditworthiness, 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 purposes included in the definition of "consumer report."

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

ASSEMBLY BILL 912

INSECT 2A ✓

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.

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 five business days after receiving the request. No later than ten 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.

Substantive amendment

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 three 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 three 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.

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.

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, or is otherwise personally liable on, a negotiable instrument, for the purpose of reviewing the account or collecting a financial obligation owing for the account, contract, or negotiable instrument or for the purpose of preventing or investigating potential fraud or identity theft; 2) a person who has a legitimate business need for the information in connection with a business

ASSEMBLY BILL 912

transaction initiated by the individual; 3) subsidiaries, affiliates, agents, assignees, and prospective assignees of the foregoing persons; 4) state or local agencies, law enforcement agencies, courts, or private collection agencies acting pursuant to court orders, warrants, or subpoenas; 5) child support agencies acting to enforce child support obligations; 6) 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; 7) persons administering a credit file monitoring service to which the individual has subscribed; 8) persons who provide the individual with a copy of a consumer report at the individual's request; or 9) insurers authorized to do business in this state who use consumer reports for underwriting insurance; or 10) persons who intend to use the information for employment purposes.

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

*Substitute
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ASSEMBLY BILL 912

substitute amendment

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.

~~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:

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 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:

ASSEMBLY BILL 912

1 1. Sends a request by certified mail to an address designated by the consumer
2 reporting agency. INSERT 5-2 ✓

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

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

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

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

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

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

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

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

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

24 3. A consumer reporting agency that is a deposit account information service
25 company which issues reports regarding account closures due to fraud, substantial

ASSEMBLY BILL 912

1 overdrafts, automated teller machine abuse, or similar negative information
2 regarding an individual to inquiring financial institutions for use only in reviewing
3 an individual's request for a deposit account at the inquiring financial institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 **(7) THIRD PARTIES.** (a) If a 3rd party requests access to an individual's consumer
25 report that includes a security freeze, the request is made in connection with the

ASSEMBLY BILL 912

1 individual's application for an extension of credit, and the consumer reporting
2 agency is prohibited under this section from releasing the report to the 3rd party, the
3 3rd party may treat the individual's application as incomplete.

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

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

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

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

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

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

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

4 (b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person
5 to whom the individual has authorized release of the consumer report under sub. (4).

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

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

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

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

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

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

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

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

24 **(9) FEES.** (a) Except as provided in par. (b), a consumer reporting agency may
25 charge an individual a fee of no more than \$10 each time that the individual requests

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1 a security freeze under sub. (2), authorizes release of a consumer report under sub.
2 (4), or requests removal of a security freeze under sub. (6).

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

9 (10) INFORMATION CHANGES. (a) Except as provided in par. (b), if a consumer
10 reporting agency includes a security freeze in an individual's consumer report, the
11 consumer reporting agency may not change the individual's name, date of birth,
12 social security number, or address in the report unless, ~~no later than~~ 30 business
13 days ~~before or after~~ *within* changing the information, the consumer reporting agency sends
14 written notice of the change to the individual. If the notice concerns a change of
15 address, the consumer reporting agency shall send the notice to both the new and
16 former address.

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

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

24 "Wisconsin Consumers Have the Right to Obtain a Security Freeze.

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

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

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

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

ASSEMBLY BILL 912

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

6 ~~¶ (12) ENFORCEMENT RULES.~~ (a) The division of banking shall enforce this section.

7 ~~(b)~~ (b) The division of banking shall promulgate rules specifying what constitutes
 8 proper identification for purposes of subs. (2) (a) 2., (4) (a) 2., and (6) (a) 2. The rules
 9 shall be consistent with any requirements under federal credit reporting law
 10 pertaining to proper identification. (a)

11 (13) DAMAGES. Any person who obtains a consumer report from a consumer
 12 reporting agency, requests a consumer reporting agency to include or remove a
 13 security freeze in a consumer report, or authorizes a consumer reporting agency to
 14 release a consumer report that includes a security freeze, under false pretenses or
 15 in knowing violation of this section or federal law, shall be liable to the consumer
 16 reporting agency for actual damages sustained by the consumer reporting agency or
 17 \$1,000, whichever is greater.

18 SECTION 2. Effective date.

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

20 (END)

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FROM THE
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(An individual can also make the request by a secure electronic mail connection, if the consumer reporting agency provides such a connection.)

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INSERT 3A:

5

8. The substitute amendment allows an individual to bring an action for damages, costs, and attorney fees against a person who fails to comply with the substitute amendment.

6

7

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INSERT 5-2:

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26
28

, or sends a request directly to the consumer reporting agency through a secure electronic mail connection if the consumer reporting agency provides such a connection

10

11

12

INSERT 12-17:

13

(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.

14

15

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0471/1dn

MDK:.....
JK

Rep. Fitzgerald:

Please note the following about this substitute amendment:

1. The substitute amendment removes the requirement for DFI to enforce the new requirements. However, I assume that you want to maintain the requirement for DFI to promulgate rules on what constitutes proper identification. Is that okay?
2. The substitute amendment creates a private cause of action. Note that an action can be brought for a failure to comply. The instructions refer to a "negligent" failure to comply, but I assume that you don't really mean that, because that would exclude actions based on intentional failures to comply.
3. The substitute amendment also makes the other changes you requested.

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

LRBs0471/1dn
MDK:jld:rs

January 19, 2006

Rep. Fitzgerald:

Please note the following about this substitute amendment:

1. The substitute amendment removes the requirement for DFI to enforce the new requirements. However, I assume that you want to maintain the requirement for DFI to promulgate rules on what constitutes proper identification. Is that okay?
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3. The substitute amendment also makes the other changes you requested.

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

Kunkel, Mark

From: Bender, Jim
Sent: Thursday, January 19, 2006 2:09 PM
To: Kunkel, Mark
Cc: Sappenfield, Anne
Subject: RE: AB 912 Amendment

(+) DATA is enforcement authority

Yes. But I have some minor changes to what I sent you.

In the section regarding electronic mail as an option for lifting the freeze, I would like to see something more generic. I don't want technology definitions getting in the way. As long as we keep a "may" provision in the language, I would like to see our bill allow consumers to utilize any means provided by the consumer reporting agencies.

Additionally - with regards to liability - we will need some reference to negligent and intentional to cover all bases. I want consumers to have the right to pursue damages to matter if the reporting agencies were negligent or acted intentionally with the release of information.

Thank you -

From: Kunkel, Mark
Sent: Thursday, January 19, 2006 11:23 AM
To: Bender, Jim
Subject: RE: AB 912 Amendment

Jim, you should get this tomorrow morning. Will that be okay?

-- Mark

From: Bender, Jim
Sent: Wednesday, January 18, 2006 3:56 PM
To: Kunkel, Mark
Cc: Sappenfield, Anne
Subject: AB 912 Amendment

Mark,

Here is a list of changes we want made to AB 912 (LRB3364/3). I am not sure if this can be a simple amendment or if a sub would be better. I guess we are leaning towards a sub. We need these changes ASAP as we are scheduling an executive session in the State Affairs Committee.

Thank you -

James E. Bender
Communications Director
Office of Rep. Jeff Fitzgerald
Assistant Majority Leader
(608) 266-2540
<< File: AB912 Amend.doc >>

2

0-NOTE

Today

PM has been run

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

gen cat

1 AN ACT *to create* 138.25 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

Subject to certain exceptions, this substitute amendment 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.

Under the substitute amendment, "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 creditworthiness, 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 substitute amendment allows an individual to prohibit releases of his or her consumer report only for extensions of credit. The substitute amendment does not allow an individual to prohibit releases for any of the other purposes included in the definition of "consumer report."

Also under the substitute amendment, "consumer reporting agency" has the same meaning as under the FCRA, which defines "consumer reporting agency" as

any other means that ✓

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.

The substitute amendment 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 substitute amendment defines as a notice indicating that release of the report is subject to the substitute amendment. 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 five business days after receiving the request. (An individual can also make the request by ~~a secure electronic mail connection, if the consumer reporting agency provides such a connection~~) No later than ten 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.

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 substitute amendment 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 three 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 three 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.

The substitute amendment 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.

The substitute amendment 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, or is otherwise personally liable on, a negotiable instrument, for the purpose of reviewing the account or collecting a financial obligation owing for the account, contract, or negotiable instrument or for the purpose of preventing or investigating potential fraud or identity theft; 2) a person who has a legitimate business need for the information in connection with a business transaction initiated by the individual; 3) subsidiaries, affiliates, agents, assignees, and prospective assignees of the foregoing persons; 4) state or local agencies, law enforcement agencies, courts, or private collection agencies acting pursuant to court orders, warrants, or subpoenas; 5) child support agencies acting to enforce child support obligations; 6) 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; 7) persons administering a credit file monitoring service to which the individual has subscribed; 8) persons who provide the individual with a copy of a consumer report at the individual's request; or 9) insurers authorized to do business in this state who use consumer reports for underwriting insurance; or 10) persons who intend to use the information for employment purposes.

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 substitute amendment 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 substitute amendment 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 substitute amendment 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.

INSECT
4A ✓

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

8. The substitute amendment allows an individual to bring an action for damages, costs, and attorney fees against a person who fails to comply with the substitute amendment.

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

Finally, the substitute amendment requires the ~~Division of Banking in the Department of Financial Institutions~~ 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.

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

(B)

X 100.54

1 100.54 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) "Consumer report" has the meaning given in 15 USC 1681a (d).

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

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

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

✓
by any other means that

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

4 1. Sends a request by certified mail to an address designated by the consumer
5 reporting agency, or sends a request directly to the consumer reporting agency
6 ~~through a secure electronic mail connection if the consumer reporting agency~~
7 ~~provides such a connection.~~ *may provide* ✓

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) If an individual satisfies the requirements under par. (a) 1. to 4., the
24 consumer reporting agency shall release the individual consumer report during the
25 time period specified by the individual, except that a consumer reporting agency is

1 not required to release a consumer report sooner than 3 business days after the
2 individual contacts the consumer reporting agency under par. (a) 1. A consumer
3 reporting agency may establish procedures for releasing consumer reports sooner
4 than 3 business days for individuals who satisfy the requirements under par. (a) 1.
5 to 4. by telephone, facsimile, or the Internet, or by use of other electronic media.

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

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

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

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

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

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

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

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

24 (b) If an individual requests removal of a security freeze under par. (a), the
25 consumer reporting agency shall remove the security freeze from the individual's

1 consumer report no later than 3 business days after the individual satisfies the
2 requirements under par. (a) 1. to 3. and the consumer reporting agency's release of
3 the report is no longer subject to this section.

4 **(7) THIRD PARTIES.** (a) If a 3rd party requests access to an individual's consumer
5 report that includes a security freeze, the request is made in connection with the
6 individual's application for an extension of credit, and the consumer reporting
7 agency is prohibited under this section from releasing the report to the 3rd party, the
8 3rd party may treat the individual's application as incomplete.

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

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

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

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

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

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

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

7 (b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person
8 to whom the individual has authorized release of the consumer report under sub. (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

No # or any other means (by) provided by a consumer reporting agency ✓

1 "Wisconsin Consumers Have the Right to Obtain a Security Freeze.

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

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

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

21 A security freeze does not apply to a person or its affiliates, or collection
22 agencies acting on behalf of a person, with which you have an existing account, that
23 requests information in your credit report for the purposes of reviewing or collecting
24 the account. Reviewing the account includes activities related to account

1 maintenance, monitoring, credit line increases, and account upgrades and
2 enhancements.

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

8 (12) RULES. The ~~division of banking~~ ^{✓ department} shall promulgate rules specifying what
9 constitutes proper identification for purposes of subs. (2) (a) 2., (4) (a) 2., and (6) (a)
10 2. The rules shall be consistent with any requirements under federal credit reporting
11 law pertaining to proper identification.

12 (13) DAMAGES. (a) Any person who obtains a consumer report from a consumer
13 reporting agency, requests a consumer reporting agency to include or remove a
14 security freeze in a consumer report, or authorizes a consumer reporting agency to
15 release a consumer report that includes a security freeze, under false pretenses or
16 in knowing violation of, or in an attempt to violate, this section or federal law, shall
17 be liable to the consumer reporting agency for actual damages sustained by the
18 consumer reporting agency or \$1,000, whichever is greater.

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

22 **SECTION 2. Effective date.**

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

24 (END)

d-note
↓

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0471/2ins
MDK:.....

1

INSERT 4A:

2

~~NO~~ Department of Agriculture, Trade^e and Consumer Protection[✓] to enforce the

3

substitute amendment's requirements and ~~NO~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0471/2dn

MDK:↑:...

Handwritten signature/initials

Rep. Fitzgerald:

This version is identical to the previous version, except for the following:

1. DATCP, not DFI, enforces the requirements and promulgates rules. DATCP enforces the requirements because I moved the requirements to ch. 100. Note that under s. 93.07 (1) and (24), DATCP administers and enforces requirements included in ch. 100.
2. Proposed s. 100.54 (2) (a) 1. refers to any means provided by a consumer reporting agency, instead of an electronic mail connection. Of course, "any means" could include an electronic mail connection.

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

LRBs0471/2dn
MDK:jld:pg

January 20, 2006

Rep. Fitzgerald:

This version is identical to the previous version, except for the following:

1. DATCP, not DFI, enforces the requirements and promulgates rules. DATCP enforces the requirements because I moved the requirements to ch. 100. Note that under s. 93.07 (1) and (24), DATCP administers and enforces requirements included in ch. 100.
2. Proposed s. 100.54 (2) (a) 1. refers to any means provided by a consumer reporting agency, instead of an electronic mail connection. Of course, "any means" could include an electronic mail connection.

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

Barman, Mike

From: Barman, Mike
Sent: Monday, January 23, 2006 10:27 AM
To: Rep.Fitzgerald; Bender, Jim
Subject: Supplemental fiscal estimate for AB-912 Sub Amendment

Jim -

See Joint Rule 41 (3) (b) below ... let me know if you have any questions

Supplemental fiscal estimates. Legislative Joint Rules 41 (3) (a), (b), (c) and (f), 46 (4), and 48 (2) and (3) provide for the preparation and publication of supplemental fiscal estimates.

(1) *Joint Rule 48 (2)*. During an original fiscal estimate's five-day review period, but not afterwards, the bill's primary author may electronically submit to the Legislative Reference Bureau (lrb.legal@legis.state.wi.us) (Attn: Mike Barman) (phone: 266-3561) a request for an agency to also prepare a supplemental fiscal estimate for the bill as affected by an introduced or un-introduced proposed amendment or substitute amendment. This request is processed the same as the original fiscal estimate except that only one agency is required to prepare the supplemental fiscal estimate instead of the multiple agencies that may have prepared an estimate for the original bill. The Legislative Reference Bureau will electronically forward the request from the author to the Department of Administration and will include an electronic copy of the amendment or substitute amendment.

(2) *Joint Rule 48 (3)*. The primary author of an introduced bill may request the Legislative Fiscal Bureau or the Department of Administration to prepare a supplemental fiscal estimate on a bill if the primary author disagrees with an estimate prepared by a state agency.

(3) *Joint Rule 41 (3) (c)*. The Department of Administration may submit a supplemental estimate on its own initiative when the department disagrees with an estimate prepared by a state agency.

(4) *Joint Rule 41 (3) (b)*. By request of the primary author of an introduced bill, the presiding officer of either house of the Legislature may request (through the Department of Administration) that a state agency prepare a supplemental fiscal estimate on a bill or on a bill as affected by a proposed amendment or substitute amendment. The Department of Administration will notify the Legislative Reference Bureau and inform them of the request.

Note: An e-mail request sent by Gard's office to both the fiscal estimate coordinator at DOA (fes@doa.state.wi.us) and myself (mike.barman@legis.state.wi.us) is the best (fastest) way to go.

(5) *Joint Rule 41 (3) (a)*. The Joint Committee on Finance by a majority of its members or by either co-chairperson may request from a state agency (through the Department of Administration) or from the Legislative Fiscal Bureau a supplemental fiscal estimate on a bill or on a bill as affected by a proposed amendment or substitute amendment, if the committee or co-chairperson believes that the estimate on the bill or the modified bill would be substantially different from the estimate on the original bill.

Mike Barman (Senior Program Assistant)

Barman, Mike

From: Rep.Gard
Sent: Monday, January 23, 2006 10:51 AM
To: Barman, Mike
Cc: Bender, Jim
Subject: Supplemental Fiscal Estimate

Pursuant to Joint Rule 41(3)(b), I am requesting that a supplemental fiscal estimate on a proposed amendment to AB 912. The LRB number for the sub is s0471/2. I would appreciate this being prepared as soon as possible as the bill is scheduled for an executive session tomorrow. Thank you.