



**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 283**

September 26, 2013 – Offered by Senator SCHULTZ.

1 **AN ACT** *to create* 100.545 of the statutes; **relating to:** restricting the release of
2 credit information about certain protected individuals and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law generally allows an individual to prohibit a consumer reporting agency (CRA) from releasing the individual's consumer report (credit report) for any purpose related to the extension of credit without the individual's prior authorization. If an individual makes a proper request to a CRA, provides proper identification, and pays any applicable fee, the CRA must include a "security freeze" on the individual's credit report. A CRA may not release an individual's credit report for an extension of credit if the report includes a security freeze. There are various exceptions to these requirements, including CRAs to which the requirements do not apply and exceptions allowing a CRA to release an individual's credit report that includes a security freeze for specified purposes or under specified circumstances. Current law also includes procedures for an individual to authorize release of a credit report that includes a security freeze. In addition, a CRA must remove a security freeze upon an individual's request, but may charge a fee to do so.

This substitute amendment provides for additional security freezes by allowing representatives to obtain security freezes on behalf of protected consumers. The substitute amendment defines a "protected consumer" as either: 1) an individual who is under 16 years old; or 2) an individual for whom a guardian or conservator has been appointed. The substitute amendment defines a "representative" as a

person who provides “sufficient proof of authority” to act on behalf of a protected consumer, which is defined to include: 1) a court order; 2) a power of attorney; or 3) a notarized statement describing the authority to act on behalf of a protected consumer. Under the substitute amendment, a representative may request a security freeze for a protected consumer by providing a CRA with the sufficient proof of authority described above, as well as “sufficient proof of identification” of both the representative and protected consumer. The substitute amendment defines “sufficient proof of identification” to include: 1) a social security number (SSN) or copy of a SSN card; 2) a certified or official copy of a birth certificate; or 3) a copy of a motor vehicle operator’s license or identification card.

If a CRA receives a representative’s request for a security freeze on behalf of a protected consumer, and the CRA already has a file on the protected consumer, the CRA must place a security freeze that prohibits the CRA from releasing the protected consumer’s credit report. If the CRA does not have a file on the protected consumer, the CRA must place a security freeze by creating a record identifying the protected consumer. The substitute amendment prohibits using the record for credit considerations. The substitute amendment requires a CRA to verify that it has no file by checking names and SSNs in its existing files. The substitute amendment requires a CRA to place a security freeze within 30 days after receiving a request that complies with the substitute amendment, regardless of whether the CRA already has a file on the protected consumer. Upon placement of a security freeze, the CRA may not release the protected consumer’s credit report, any information derived from the credit report, or any record created under the substitute amendment, unless the security freeze is removed as discussed below.

The substitute amendment also does the following:

1. Creates procedures for representatives and protected consumers to have CRAs remove security freezes and allows CRAs to remove security freezes based on material misrepresentation of fact by representatives or protected consumers.

2. Allows CRAs to charge a reasonable fee not exceeding \$10 for placing or removing security freezes, but prohibits fees in cases involving identity theft or protected consumers under 16 years old who already have files at CRAs.

3. Creates exceptions from the substitute amendment’s requirements, including the exceptions that apply to security freeze restrictions under current law, as well as exceptions for information used for criminal records, fraud prevention or detection, personal loss history information, or certain background screening purposes.

4. Allows the Department of Agriculture, Trade and Consumer Protection and the Department of Justice to bring actions to enforce the substitute amendment’s requirements.

5. Subjects a person who violates the substitute amendment to a civil forfeiture of not more than \$1,000 per violation.

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

1 **SECTION 1.** 100.545 of the statutes is created to read:

2 **100.545 Security freezes for protected consumers. (1) DEFINITIONS.** In
3 this section:

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

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

6 (c) “Protected consumer” means an individual who is one of the following:

7 1. Under the age of 16 years at the time a request for the placement of a security
8 freeze is made under sub. (3) (a).

9 2. An individual for whom a guardian or conservator has been appointed.

10 (d) “Record” means a compilation of information about a protected consumer
11 that satisfies all of the following:

12 1. The compilation identifies the protected consumer.

13 2. The compilation is created by a consumer reporting agency solely for the
14 purpose of complying with this section.

15 (e) “Representative” means a person who provides to a consumer reporting
16 agency sufficient proof of authority to act on behalf of a protected consumer.

17 (f) “Security freeze for a protected consumer” means one of the following:

18 1. If a consumer reporting agency does not have a file pertaining to a protected
19 consumer, a restriction placed on the protected consumer’s record that prohibits,
20 except as provided in this section, the consumer reporting agency from releasing the
21 protected consumer’s record.

22 2. If a consumer reporting agency has a file pertaining to the protected
23 consumer, a restriction placed on the protected consumer’s credit report that
24 prohibits, except as provided in this section, the consumer reporting agency from

1 releasing the protected consumer’s credit report or any information derived from the
2 protected consumer’s credit report.

3 (g) “Sufficient proof of authority” means documentation that shows a
4 representative has authority to act on behalf of a protected consumer, including any
5 of the following:

6 1. An order issued by a court.

7 2. A lawfully executed and valid power of attorney.

8 3. A written, notarized statement signed by a representative that expressly
9 describes the authority of the representative to act on behalf of a protected consumer.

10 (h) “Sufficient proof of identification” means information or documentation
11 that identifies a protected consumer or a representative of a protected consumer,
12 including any of the following:

13 1. A social security number or a copy of a social security card issued by the social
14 security administration.

15 2. A certified or official copy of a birth certificate issued by the entity authorized
16 to issue the birth certificate.

17 3. A copy of an operator’s license issued under ch. 343 or under a comparable
18 law of another state, an identification card issued under s. 343.50 or under a
19 comparable law of another state, or any other government issued identification.

20 **(2) EXCEPTIONS.** This section does not apply to the use of a protected consumer’s
21 credit report or record by any of the following:

22 (a) A person administering a credit file monitoring subscription service to
23 which the protected consumer has subscribed or the representative of the protected
24 consumer has subscribed on behalf of the protected consumer.

1 (b) A person providing the protected consumer or the protected consumer's
2 representative with a copy of the protected consumer's credit report on request of the
3 protected consumer or the protected consumer's representative.

4 (c) A person exempted under s. 100.54 (8) from the requirements of s. 100.54.

5 (d) An insurance company for the purpose of conducting its ordinary business.

6 (e) A consumer reporting agency's database or file that consists of information
7 concerning, and used for, one or more of the following, but not for credit granting
8 purposes:

9 1. Criminal record information.

10 2. Fraud prevention or detection.

11 3. Personal loss history information.

12 4. Employment, tenant, or other background screening.

13 **(3) PLACEMENT OF SECURITY FREEZE.** (a) A consumer reporting agency shall place
14 a security freeze for a protected consumer if the consumer reporting agency receives
15 a request from the protected consumer's representative for the placement of the
16 security freeze and the protected consumer's representative does all of the following:

17 1. Submits the request to the consumer reporting agency at the address or other
18 point of contact and in the manner specified by the consumer reporting agency.

19 2. Provides to the consumer reporting agency sufficient proof of identification
20 of the protected consumer and the representative.

21 3. Provides to the consumer reporting agency sufficient proof of authority to act
22 on behalf of the protected consumer.

23 4. Pays to the consumer reporting agency a fee as provided in sub. (5).

24 (b) If a consumer reporting agency does not have a file pertaining to a protected
25 consumer when the consumer reporting agency receives a request under par. (a), the

1 consumer reporting agency shall create a record for the protected consumer. Upon
2 receiving the request, the consumer reporting agency shall verify that no file
3 pertains to the protected consumer by checking for existing files relating to the
4 protected consumer's name and social security number and for existing files relating
5 only to the protected consumer's social security number. A record created under this
6 paragraph may not be used to consider the protected consumer's creditworthiness,
7 credit standing, credit capacity, character, general reputation, personal
8 characteristics, or mode of living.

9 (c) Within 30 days after receiving a request that meets the requirements of par.
10 (a), a consumer reporting agency shall place a security freeze for the protected
11 consumer.

12 (d) Unless a security freeze for a protected consumer is removed in accordance
13 with sub. (4) or (6), a consumer reporting agency may not release the protected
14 consumer's credit report, any information derived from the protected consumer's
15 credit report, or any record created for the protected consumer.

16 (e) A security freeze for a protected consumer placed under par. (c) remains in
17 effect until one of the following occurs:

18 1. The protected consumer or the protected consumer's representative requests
19 the consumer reporting agency to remove the security freeze in accordance with sub.
20 (4).

21 2. The security freeze is removed in accordance with sub. (6).

22 (4) REMOVAL OF SECURITY FREEZE. (a) If a protected consumer or a protected
23 consumer's representative wishes to remove a security freeze for the protected
24 consumer, the protected consumer or the protected consumer's representative shall
25 do all of the following:

1 1. Submit a request for the removal of the security freeze to the consumer
2 reporting agency at the address or other point of contact and in the manner specified
3 by the consumer reporting agency.

4 2. Provide to the consumer reporting agency sufficient proof of identification
5 of the protected consumer and one of the following:

6 a. For a request by the protected consumer, proof that the sufficient proof of
7 authority for the protected consumer’s representative to act on behalf of the
8 protected consumer is no longer valid.

9 b. For a request by the representative of the protected consumer, sufficient
10 proof of identification of the representative and sufficient proof of authority to act on
11 behalf of the protected consumer.

12 3. Pay to the consumer reporting agency a fee as provided in sub. (5).

13 (b) Within 30 days after receiving a request that meets the requirements of par.
14 (a), the consumer reporting agency shall remove the security freeze for the protected
15 consumer.

16 **(5) FEES.** (a) Except as provided in par. (b), a consumer reporting agency may
17 not charge a fee for any service performed under this section.

18 (b) A consumer reporting agency may charge a reasonable fee, not exceeding
19 \$10, for each placement or removal of a security freeze for a protected consumer.

20 (c) Notwithstanding par. (b), a consumer reporting agency may not charge any
21 fee under this section if any of the following applies:

22 1. The protected consumer’s representative has obtained a police report or
23 affidavit of alleged identity fraud against the protected consumer and provides a
24 copy of the report or affidavit to the consumer reporting agency.

