

By: Representative Clark

To: Banking and Financial Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1410

1 AN ACT TO AUTHORIZE CONSUMERS TO PLACE A SECURITY ALERT IN
2 THEIR CREDIT REPORTS MAINTAINED BY CONSUMER CREDIT REPORTING
3 AGENCIES; TO PROVIDE FOR CERTAIN REQUIREMENTS AND PROCEDURES
4 RELATING TO A SECURITY ALERT; TO AUTHORIZE CONSUMERS TO PLACE A
5 SECURITY FREEZE IN THEIR CREDIT REPORTS MAINTAINED BY CONSUMER
6 CREDIT REPORTING AGENCIES; TO PROVIDE FOR CERTAIN REQUIREMENTS AND
7 PROCEDURES RELATING TO A SECURITY FREEZE; AND FOR RELATED
8 PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** (1) A consumer may elect to place a security
11 alert in his or her credit report by making a request in writing
12 or by telephone to a consumer credit reporting agency. "Security
13 alert" means a notice placed in a consumer's credit report, at the
14 request of the consumer, that notifies a recipient of the credit
15 report that the consumer's identity may have been used without the
16 consumer's consent to fraudulently obtain goods or services in the
17 consumer's name.

18 (2) A consumer credit reporting agency shall notify each
19 person requesting consumer credit information with respect to a
20 consumer of the existence of a security alert in the credit report
21 of that consumer, regardless of whether a full credit report,
22 credit score, or summary report is requested.

23 (3) Each consumer credit reporting agency shall maintain a
24 toll-free telephone number to accept security alert requests from
25 consumers twenty-four (24) hours a day, seven (7) days a week.

26 (4) The toll-free telephone number shall be included in any
27 written disclosure by a consumer credit reporting agency to any
28 consumer and shall be printed in a clear and conspicuous manner.

29 (5) A consumer credit reporting agency shall place a
30 security alert on a consumer's credit report no later than five
31 (5) business days after receiving a request from the consumer.

32 (6) The security alert shall remain in place for at least
33 ninety (90) days, and a consumer shall have the right to request a
34 renewal of the security alert.

35 (7) Any person who uses a consumer credit report in
36 connection with the approval of credit based on an application for
37 an extension of credit, or with the purchase, lease, or rental of
38 goods or noncredit-related services and who receives notification
39 of a security alert pursuant to subsection (1) may not lend money,
40 extend credit, or complete the purchase, lease, or rental of goods
41 or noncredit-related services without taking reasonable steps to
42 verify the consumer's identity, in order to ensure that the
43 application for an extension of credit or for the purchase, lease,
44 or rental of goods or noncredit-related services is not the result
45 of identity theft. If the consumer has placed a statement with
46 the security alert in his or her file requesting that identity be
47 verified by calling a specified telephone number, any person who
48 receives that statement with the security alert in a consumer's
49 file pursuant to subsection (1) shall take reasonable steps to
50 verify the identity of the consumer by contacting the consumer
51 using the specified telephone number before lending money,
52 extending credit, or completing the purchase, lease, or rental of
53 goods or noncredit-related services. If a person uses a consumer
54 credit report to facilitate the extension of credit or for another
55 permissible purpose on behalf of a subsidiary, affiliate, agent,
56 assignee, or prospective assignee, that person may verify a
57 consumer's identity under this section in lieu of the subsidiary,
58 affiliate, agent, assignee, or prospective assignee.

59 (8) For purposes of this section, "extension of credit" does
60 not include an increase in the dollar limit of an existing
61 open-end credit plan, as defined in Regulation Z issued by the

62 Board of Governors of the Federal Reserve System (12 CFR 226.2),
63 or any change to, or review of, an existing credit account.

64 (9) If reasonable steps are taken to verify the identity of
65 the consumer, those steps constitute compliance with the
66 requirements of this section, except that if a consumer has placed
67 a statement including a telephone number with the security alert
68 in his or her file, his or her identity shall be verified by
69 contacting the consumer using that telephone number as specified
70 pursuant to subsection (7).

71 (10) A consumer credit reporting agency shall notify each
72 consumer who has requested that a security alert be placed on his
73 or her consumer credit report of the expiration date of the alert.

74 (11) Any consumer credit reporting agency that recklessly,
75 willfully, or intentionally fails to place a security alert
76 pursuant to this section shall be liable for a civil penalty in an
77 amount of up to Two Thousand Five Hundred Dollars (\$2,500) and
78 reasonable attorneys' fees.

79 (12) This section shall stand repealed on June 30, 2008.

80 **SECTION 2.** (1) A consumer may elect to place a security
81 freeze on his or her credit report by making a request in writing
82 by certified mail to a consumer credit reporting agency.

83 "Security freeze" means a notice placed in a consumer's credit
84 report, at the request of the consumer and subject to certain
85 exceptions, that prohibits the consumer credit reporting agency
86 from releasing the consumer's credit report or any information
87 from it without the express authorization of the consumer. If a
88 security freeze is in place, information from a consumer's credit
89 report may not be released to a third party without prior express
90 authorization from the consumer. This subsection does not prevent
91 a consumer credit reporting agency from advising a third party
92 that a security freeze is in effect with respect to the consumer's
93 credit report.

94 (2) A consumer credit reporting agency shall place a
95 security freeze on a consumer's credit report no later than five
96 (5) business days after receiving a written request from the
97 consumer.

98 (3) The consumer credit reporting agency shall send a
99 written confirmation of the security freeze to the consumer within
100 ten (10) business days and shall provide the consumer with a
101 unique personal identification number or password to be used by
102 the consumer when providing authorization for the release of his
103 or her credit for a specific party or period of time.

104 (4) If the consumer wishes to allow his or her credit report
105 to be accessed for a specific party or period of time while a
106 freeze is in place, he or she shall contact the consumer credit
107 reporting agency, request that the freeze be temporarily lifted,
108 and provide the following:

109 (a) Proper identification; and

110 (b) The unique personal identification number or
111 password provided by the credit reporting agency pursuant to
112 subsection (3); and

113 (c) The proper information regarding the third party
114 who is to receive the credit report or the time period for which
115 the report shall be available to users of the credit report.

116 (5) A consumer credit reporting agency that receives a
117 request from a consumer to temporarily lift a freeze on a credit
118 report pursuant to subsection (4) shall comply with the request no
119 later than three (3) business days after receiving the request.

120 (6) A consumer credit reporting agency may develop
121 procedures involving the use of telephone, fax, the Internet, or
122 other electronic media to receive and process a request from a
123 consumer to temporarily lift a freeze on a credit report pursuant
124 to subsection (4) in an expedited manner.

125 (7) A consumer credit reporting agency shall remove or
126 temporarily lift a freeze placed on a consumer's credit report
127 only in the following cases:

128 (a) Upon consumer request, pursuant to subsection (4)
129 or (10); or

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

136 (8) If a third party requests access to a consumer credit
137 report on which a security freeze is in effect, and this request
138 is in connection with an application for credit or any other use,
139 and the consumer does not allow his or her credit report to be
140 accessed for that specific party or period of time, the third
141 party may treat the application as incomplete.

142 (9) If a consumer requests a security freeze, the consumer
143 credit reporting agency shall disclose the process of placing and
144 temporarily lifting a freeze, and the process for allowing access
145 to information from the consumer's credit report for a specific
146 party or period of time while the freeze is in place.

147 (10) A security freeze shall remain in place until the
148 consumer requests that the security freeze be removed. A consumer
149 credit reporting agency shall remove a security freeze within
150 three (3) business days of receiving a request for removal from
151 the consumer, who provides both of the following:

152 (a) Proper identification; and

153 (b) The unique personal identification number or
154 password provided by the credit reporting agency pursuant to
155 subsection (3).

156 (11) A consumer credit reporting agency shall require proper
157 identification of the person making a request to place or remove a
158 security freeze.

159 (12) The provisions of this section do not apply to the use
160 of a consumer credit report by any of the following:

161 (a) A person or entity, or a subsidiary, affiliate, or
162 agent of that person or entity, or an assignee of a financial
163 obligation owing by the consumer to that person or entity, or a
164 prospective assignee of a financial obligation owing by the
165 consumer to that person or entity in conjunction with the proposed
166 purchase of the financial obligation, with which the consumer has
167 or had before assignment an account or contract, including a
168 demand deposit account, or to whom the consumer issued a
169 negotiable instrument, for the purposes of reviewing the account
170 or collecting the financial obligation owing for the account,
171 contract, or negotiable instrument. For purposes of this
172 paragraph, "reviewing the account" includes activities related to
173 account maintenance, monitoring, credit line increases, and
174 account upgrades and enhancements.

175 (b) A subsidiary, affiliate, agent, assignee, or
176 prospective assignee of a person to whom access has been granted
177 under subsection (4) for purposes of facilitating the extension of
178 credit or other permissible use.

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

182 (d) A child support agency acting pursuant to 43-19-31
183 et seq. or Title IV-D of the Social Security Act (42 USCS Section
184 651 et seq.).

185 (e) The Division of Medicaid or its agents or assigns
186 acting to investigate Medicaid fraud.

187 (f) The State Tax Commission or its agents or assigns
188 acting to investigate or collect delinquent taxes or unpaid court
189 orders or to fulfill any of its other statutory responsibilities.

190 (g) The use of credit information for the purposes of
191 prescreening as provided for by the federal Fair Credit Reporting
192 Act.

193 (h) Any person or entity administering a credit file
194 monitoring subscription service to which the consumer has
195 subscribed.

196 (i) Any person or entity for the purpose of providing a
197 consumer with a copy of his or her credit report upon the
198 consumer's request.

199 (13) This section shall stand repealed on June 30, 2008.

200 **SECTION 3.** This act shall take effect and be in force from
201 and after July 1, 2006.