

By: Senator(s) Gollott

To: Business and Financial  
Institutions

SENATE BILL NO. 2909

1 AN ACT TO AUTHORIZE CONSUMERS TO PLACE A SECURITY FREEZE IN  
2 CERTAIN FILES MAINTAINED BY A CREDIT REPORTING AGENCY; TO PROVIDE  
3 FOR CERTAIN REQUIREMENTS AND PROCEDURES RELATING TO A SECURITY  
4 FREEZE; TO REQUIRE A CREDIT REPORTING AGENCY TO MAKE CERTAIN  
5 DISCLOSURES RELATING TO A SECURITY FREEZE; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** (1) As used in this section, the term "security  
9 freeze" means a notice that is placed in the file of a consumer at  
10 the request of the consumer under subsection (2).

11 (2) (a) A consumer may place a security freeze in his file  
12 with a credit reporting agency by making a request in writing by  
13 certified mail to the reporting agency. At the time of the  
14 request, the consumer must provide to the reporting agency  
15 sufficient identification to establish the identity of the  
16 consumer.

17 (b) A reporting agency shall place a security freeze  
18 in the file of a consumer not later than five (5) business days  
19 after the reporting agency receives a request from the consumer to  
20 place the security freeze in his file.

21 (c) Not later than ten (10) business days after the  
22 placement of the security freeze in the file of the consumer, the  
23 reporting agency shall send written confirmation to the consumer  
24 of the placement of the security freeze in his file and provide  
25 the consumer with:

26 (i) A unique personal identification number or  
27 password, which is not the social security number of the consumer,  
28 to be used by the consumer to authorize the temporary release of

29 the consumer report pursuant to subsection (7) or the removal of a  
30 security freeze from the file pursuant to subsection (8);

31 (ii) Information explaining the procedures by  
32 which a consumer may contact the reporting agency to authorize the  
33 temporary release of his consumer report pursuant to subsection  
34 (7) or the removal of a security freeze from his file pursuant to  
35 subsection (8); and

36 (iii) The written disclosure required pursuant to  
37 subsection (3).

38 (d) A consumer may request in writing a replacement  
39 personal identification number or password. At the time of the  
40 request, the consumer must provide to the reporting agency  
41 sufficient identification to establish the identity of the  
42 consumer. Not later than ten (10) business days after receiving  
43 the request, the reporting agency shall provide the consumer with  
44 a new, unique personal identification number or password, which is  
45 not the social security number of the consumer, to be used by the  
46 consumer instead of the number or password that was provided  
47 pursuant to paragraph (c)(i).

48 (e) Except as otherwise provided in subsections (7),  
49 (8) and (9), a reporting agency shall not remove a security freeze  
50 placed in the file of a consumer.

51 (f) The presence of a security freeze in the file of a  
52 consumer must not be considered to be an adverse factor in the  
53 consumer's credit worthiness, credit standing or credit capacity.

54 (3) If a consumer requests that a security freeze be placed  
55 in his file, a reporting agency shall provide a written disclosure  
56 of the rights of the consumer. The written disclosure is  
57 sufficient if it is in substantially the following form:

58 "You have a right to place a security freeze in your file  
59 which will prohibit a reporting agency from releasing any  
60 information in your file without your express authorization.

61 A security freeze must be requested in writing by certified mail.  
62 The security freeze is designed to prevent a reporting agency from  
63 releasing your consumer report without your consent. However, you  
64 should be aware that using a security freeze to take control over  
65 who is allowed access to the personal and financial information in  
66 your file may delay, interfere with or prohibit the timely  
67 approval of any subsequent request or application you make  
68 regarding a new loan, credit, mortgage, insurance, government  
69 services or payments, rental housing, employment, investment,  
70 license, cellular telephone, utilities, digital signature,  
71 Internet credit card transaction or other services, including an  
72 extension of credit at point of sale. When you place a security  
73 freeze in your file, you will be provided a personal  
74 identification number or password to use if you choose to remove  
75 the security freeze from your file or to authorize the temporary  
76 release of your consumer report for a specific person or period  
77 after the security freeze is in place. To provide that  
78 authorization, you must contact the reporting agency and provide  
79 all the following:

80 (a) Sufficient identification to verify your identity.

81 (b) Your personal identification number or password  
82 provided by the reporting agency.

83 (c) A statement that you choose to remove the security  
84 freeze from your file or that you authorize the reporting agency  
85 to temporarily release your consumer report. If you authorize the  
86 temporary release of your consumer report, you must name the  
87 person who is to receive your consumer report or the period for  
88 which your consumer report must be available. A reporting agency  
89 must remove the security freeze from your file or authorize the  
90 temporary release of your consumer report not later than 3  
91 business days after receiving the above information.

92 A security freeze does not apply to certain persons,  
93 including a person, or collection agencies acting on behalf of a

94 person, with whom you have an existing account that requests  
95 information in your consumer report for the purposes of reviewing  
96 or collecting the account."

97 (4) (a) Except as otherwise provided in this subsection:

98 (i) A reporting agency may charge a consumer a  
99 reasonable fee, not to exceed \$10, to place a security freeze in  
100 his file.

101 (ii) After a security freeze has been placed in the  
102 file of a consumer, a reporting agency may charge the consumer a  
103 reasonable fee:

104 1. Not to exceed \$10, to remove the security  
105 freeze from his file pursuant to subsection (8).

106 2. Not to exceed \$10, to temporarily release his  
107 consumer report for a specific period pursuant to subsection (7).

108 3. Not to exceed \$10, to temporarily release his  
109 consumer report to a specific person pursuant to subsection (7).

110 (b) A reporting agency may not charge a consumer the  
111 fees set forth in paragraph (a) to place a security freeze in his  
112 file, to temporarily release his consumer report for a specific  
113 period or to a specific person, or to remove a security freeze  
114 from his file if the consumer is a victim of identity theft and  
115 the consumer submits, at the time the security freeze is  
116 requested, a valid copy of a police report, investigative report  
117 or complaint which the consumer has filed with a law enforcement  
118 agency regarding the unlawful use of the personal information of  
119 the consumer by another person.

120 (c) On January 1 of each year, a reporting agency may  
121 increase the fees set forth in paragraph (a) based proportionally  
122 on changes to the Consumer Price Index of All Urban Consumers, as  
123 determined by the United States Department of Labor, with  
124 fractional changes rounded to the nearest 25 cents.

125           (5) (a) After a security freeze has been placed in the file  
126 of a consumer, a reporting agency shall not make any changes to  
127 the file of the consumer relating to:

128                   (i) The name of the consumer;

129                   (ii) The date of birth of the consumer;

130                   (iii) The social security number of the consumer;

131 or

132                   (iv) The address of the consumer,

133 unless the reporting agency sends written confirmation of the  
134 change to the consumer not later than 30 calendar days after the  
135 change is posted to the file of the consumer.

136           (b) If the reporting agency changes the address of the  
137 consumer, the reporting agency must send written confirmation of  
138 the change of address to both the new address and the former  
139 address of the consumer.

140           (c) The provisions of this subsection do not require a  
141 reporting agency to send written confirmation to a consumer  
142 concerning technical corrections made by the reporting agency to  
143 information in the file of the consumer, including, without  
144 limitation, technical corrections involving the abbreviation of a  
145 name or street, the transposition of numbers or letters, or the  
146 misspelling of a word.

147           (6) (a) Except as otherwise provided in subsections (7)  
148 through (10), if a security freeze has been placed in the file of  
149 a consumer, a reporting agency shall not provide a consumer report  
150 of that consumer to any person.

151           (b) If, in connection with an application for credit or  
152 any other use, a third party requests access to a consumer report  
153 on which a security freeze is in effect and the consumer does not  
154 allow his consumer report to be accessed for that specific third  
155 party or period of time, the third party may treat the application  
156 as incomplete.

157 (7) (a) To authorize the temporary release of a consumer  
158 report after a security freeze has been placed in the file of the  
159 consumer, the consumer must contact the reporting agency and  
160 request that his consumer report be temporarily released to a  
161 specific person or for a specific period. At the time of the  
162 request, the consumer must provide to the reporting agency:

163 (i) Sufficient identification to establish the  
164 identity of the consumer;

165 (ii) The personal identification number or  
166 password provided by the reporting agency pursuant to subsection  
167 (2)(c)(i); and

168 (iii) Information regarding the specific person or  
169 the specific period for which the consumer report must be  
170 temporarily released.

171 (b) A reporting agency that receives a request from a  
172 consumer pursuant to paragraph (a) shall, not later than 3  
173 business days after receiving the request, temporarily release the  
174 consumer report to the specific person or for the specific period  
175 requested by the consumer.

176 (c) A reporting agency shall develop procedures for a  
177 consumer to contact the reporting agency to authorize the  
178 temporary release of his consumer report pursuant to paragraph  
179 (a). These procedures may include, without limitation, the use of  
180 the telephone, facsimile machine, the Internet or other electronic  
181 media by a consumer to authorize the temporary release of his  
182 consumer report in an expedited manner.

183 (8) (a) To authorize the removal of a security freeze that  
184 has been placed in the file of a consumer, the consumer must  
185 contact the reporting agency and request that the security freeze  
186 be removed. At the time of the request, the consumer must provide  
187 to the reporting agency:

188 (i) Sufficient identification to establish the  
189 identity of the consumer; and

190 (ii) The personal identification number or  
191 password provided by the reporting agency pursuant to subsection  
192 (2)(c)(i).

193 (b) A reporting agency that receives a request from a  
194 consumer pursuant to paragraph (a) shall, not later than 3  
195 business days after receiving the request:

196 (i) Remove the security freeze from the file of  
197 the consumer; and

198 (ii) Send written notice to the consumer that the  
199 security freeze has been removed from the file of the consumer.

200 (c) A reporting agency shall develop procedures for a  
201 consumer to contact the reporting agency to authorize the removal  
202 of a security freeze pursuant to paragraph (a). These procedures  
203 may include, without limitation, the use of a telephone, a  
204 facsimile machine, the Internet or other electronic media by a  
205 consumer to authorize the removal of a security freeze in an  
206 expedited manner.

207 (9) (a) A reporting agency may remove a security freeze  
208 from the file of a consumer if the reporting agency has a  
209 reasonable belief that:

210 (i) The security freeze was placed in the file of  
211 the consumer because of a material misrepresentation of fact by  
212 the consumer; or

213 (ii) The consumer placed the security freeze in  
214 his file for the purposes of:

215 1. Committing fraud;

216 2. Committing any other act prohibited by  
217 law; or

218 3. Aiding and abetting any act prohibited by  
219 law.

220 (b) If a reporting agency intends to remove a security  
221 freeze from the file of a consumer pursuant to paragraph (a), the

222 reporting agency shall send written notice to the consumer before  
223 removing the security freeze.

224 (10) Notwithstanding that a security freeze has been placed  
225 in the file of a consumer, a reporting agency may release the  
226 consumer report of the consumer to:

227 (a) A person with whom the consumer has an existing  
228 business relationship, or the subsidiary, affiliate or agent of  
229 that person, for any purpose relating to that business  
230 relationship.

231 (b) A licensed collection agency to which an account of  
232 the consumer has been assigned for the purposes of collection.

233 (c) A person with whom the consumer has an account or  
234 contract or to whom the consumer has issued a negotiable  
235 instrument, or the subsidiary, affiliate, agent, assignee or  
236 prospective assignee of that person, for purposes relating to that  
237 account, contract or negotiable instrument.

238 (d) A person seeking to use information in the file of  
239 the consumer for the purposes of prescreening pursuant to the Fair  
240 Credit Reporting Act, 15 USCS Sections 1681 et seq.

241 (e) A subsidiary, affiliate, agent, assignee or  
242 prospective assignee of a person to whom access has been granted  
243 pursuant to subsection (7) for the purposes of facilitating the  
244 extension of credit.

245 (f) A person seeking to provide the consumer with a  
246 copy of the consumer report or the credit score of the consumer  
247 upon the request of the consumer.

248 (g) A person administering a credit file monitoring  
249 subscription service to which the consumer has subscribed.

250 (h) A person requesting the consumer report pursuant to  
251 a court order, warrant or subpoena.

252 (i) A federal, state or local governmental entity,  
253 agency or instrumentality that is acting within the scope of its  
254 authority, including, without limitation, an agency which is



255 seeking to collect child support payments pursuant to Part D of  
256 Title IV of the Social Security Act, 42 USCS Section 651 et seq.

257 (j) A person holding a license issued by the  
258 Mississippi Gaming Commission, or the subsidiary, affiliate,  
259 agent, assignee or prospective assignee of that person, for  
260 purposes relating to any activities conducted pursuant to the  
261 license.

262 (k) An employer, or the subsidiary, affiliate, agent,  
263 assignee or prospective assignee of that employer, for purposes  
264 of:

265 (i) Preemployment screenings relating to the  
266 consumer; or

267 (ii) Decisions or investigations relating to the  
268 consumer's current or former employment with the employer.

269 (11) The following companies are not required to place a  
270 security freeze in the file of a consumer:

271 (a) A check services or fraud prevention services  
272 company which issues reports on incidents of fraud or  
273 authorizations for the purpose of approving or processing  
274 negotiable instruments, electronic funds transfers or similar  
275 methods of payments.

276 (b) A deposit account information service company which  
277 issues reports regarding account closures because of fraud,  
278 substantial overdrafts, abuse of automatic teller machines or  
279 similar negative information regarding a consumer to inquiring  
280 banks or other financial institutions for use only in reviewing a  
281 consumer request for a deposit account at the inquiring bank or  
282 financial institution.

283 (c) A reporting agency which acts only as a reseller of  
284 credit information by assembling and merging information contained  
285 in the database of another reporting agency or in the databases of  
286 multiple reporting agencies and which does not maintain a  
287 permanent database of consumer credit information from which new

288 consumer reports are produced. Such a reporting agency shall  
289 honor any security freeze placed on a consumer report by another  
290 reporting agency.

291 **SECTION 2.** This act shall take effect and be in force from  
292 and after July 1, 2006.