

By: Representative Franks

To: Banking and Financial Services

HOUSE BILL NO. 881

1 AN ACT AUTHORIZING CERTAIN CONSUMERS TO PLACE A SECURITY
2 FREEZE IN FILES MAINTAINED BY A CREDIT REPORTING AGENCY; TO
3 PROVIDE FOR CERTAIN REQUIREMENTS AND PROCEDURES RELATING TO A
4 SECURITY FREEZE; TO REQUIRE A CREDIT REPORTING AGENCY TO MAKE
5 CERTAIN 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) On written request sent by certified mail
9 that includes proper identification provided by a consumer and a
10 copy of a valid police report, investigative report, or complaint
11 which the consumer has filed with a law enforcement agency
12 regarding the unlawful use of the personal information of the
13 consumer by another person, a consumer reporting agency shall
14 place a security freeze on a consumer's consumer file not later
15 than the fifth business day after the date the agency receives the
16 request.

17 (2) On written request for a security freeze provided by a
18 consumer under subsection (1), a consumer reporting agency shall
19 disclose to the consumer the process of placing, removing and
20 temporarily lifting a security freeze and the process for allowing
21 access to information from the consumer's consumer file for a
22 specific requester or period while the security freeze is in
23 effect. A reporting agency may charge a consumer a reasonable
24 fee, not to exceed Ten Dollars (\$10.00), to place a security
25 freeze in his file.

26 (3) A consumer reporting agency shall, not later than the
27 10th business day after the date the agency receives the request
28 for a security freeze:

29 (a) Send a written confirmation of the security freeze
30 to the consumer; and

31 (b) Provide the consumer with a unique personal
32 identification number or password to be used by the consumer to
33 authorize a removal or temporary lifting of the security freeze
34 under Section 4 of this act.

35 (4) A consumer may request in writing a replacement personal
36 identification number or password. The request must comply with
37 the requirements for requesting a security freeze under subsection
38 (1). The consumer reporting agency shall, not later than the
39 third business day after the date the agency receives the request
40 for a replacement personal identification number or password,
41 provide the consumer with a new unique personal identification
42 number or password to be used by the consumer instead of the
43 number or password that was provided under subsection (3).

44 (5) As used in this section, the term "security freeze"
45 means a notice that (a) prohibits a consumer reporting agency from
46 releasing a consumer report relating to the extension of credit
47 involving that consumer file, and (b) is placed in the file of a
48 consumer at the consumer's request pursuant to subsection (1).

49 **SECTION 2.** If a security freeze is in place, a consumer
50 reporting agency shall notify the consumer in writing of a change
51 in the consumer file to the consumer's name, date of birth, social
52 security number, or address not later than thirty (30) calendar
53 days after the date the change is made. The agency shall send
54 notification of a change of address to the new address and former
55 address. This section does not require notice of an immaterial
56 change, including a street abbreviation change or correction of a
57 transposition of letters or misspelling of a word.

58 **SECTION 3.** A consumer reporting agency shall notify a person
59 who requests a consumer report if a security freeze is in effect
60 for the consumer file involved in that report.

61 **SECTION 4.** (1) On a request in writing or by telephone and
62 with proper identification provided by a consumer, including the
63 consumer's personal identification number or password provided
64 under Section 1 of this act, a consumer reporting agency shall
65 remove a security freeze not later than the third business day
66 after the date the agency receives the request.

67 (2) On a request in writing or by telephone and with proper
68 identification provided by a consumer, including the consumer's
69 personal identification number or password provided under Section
70 1 of this act, a consumer reporting agency, not later than the
71 third business day after the date the agency receives the request,
72 shall temporarily lift the security freeze for:

73 (a) A certain properly designated period; or

74 (b) A certain properly identified requester.

75 (3) A consumer reporting agency may develop procedures
76 involving the use of a telephone, a facsimile machine, the
77 Internet, or another electronic medium to receive and process a
78 request from a consumer under this section.

79 (4) A consumer reporting agency shall remove a security
80 freeze placed on a consumer file if the security freeze was placed
81 due to a material misrepresentation of fact by the consumer. The
82 consumer reporting agency shall notify the consumer in writing
83 before removing the security freeze under this subsection.

84 (5) A consumer reporting agency may not charge a fee for a
85 request under subsection (1) or (2).

86 **SECTION 5.** A security freeze does not apply to a consumer
87 report provided to:

88 (a) A state or local governmental entity, including a
89 law enforcement agency or court or private collection agency, if
90 the entity, agency, or court is acting under a court order,
91 warrant, subpoena, or administrative subpoena;

92 (b) An agency acting to investigate or collect child
93 support payments or acting under Title IV-D of the Social Security
94 Act (42 USCS Section 651 et seq.);

95 (c) The State Tax Commission acting to investigate or
96 collect delinquent sales or franchise taxes;

97 (d) A tax assessor-collector acting to investigate or
98 collect delinquent ad valorem taxes;

99 (e) A person for the purposes of prescreening as
100 provided by the Fair Credit Reporting Act (15 USCS Section 1681 et
101 seq.), as amended, including a person setting or adjusting a rate,
102 adjusting a claim, or underwriting for insurance purposes;

103 (f) A person with whom the consumer has an account or
104 contract or to whom the consumer has issued a negotiable
105 instrument, or the person's subsidiary, affiliate, agent,
106 assignee, prospective assignee, or private collection agency, for
107 purposes related to that account, contract or instrument;

108 (g) A subsidiary, affiliate, agent, assignee, or
109 prospective assignee of a person to whom access has been granted
110 under Section 4(2);

111 (h) A person who administers a credit file monitoring
112 subscription service to which the consumer has subscribed;

113 (i) A person for the purpose of providing a consumer
114 with a copy of the consumer's report on the consumer's request;

115 (j) A check service or fraud prevention service company
116 that issues consumer reports:

117 (i) To prevent or investigate fraud; or

118 (ii) For purposes of approving or processing
119 negotiable instruments, electronic funds transfers, or similar
120 methods of payment;

121 (k) A deposit account information service company that
122 issues consumer reports related to account closures caused by
123 fraud, substantial overdrafts, automated teller machine abuses, or
124 similar negative information regarding a consumer to an inquiring

125 financial institution for use by the financial institution only in
126 reviewing a consumer request for a deposit account with that
127 institution; or

128 (1) A consumer reporting agency that:

129 (i) Acts only to resell credit information by
130 assembling and merging information contained in a database of
131 another consumer reporting agency or multiple consumer reporting
132 agencies; and

133 (ii) Does not maintain a permanent database of
134 credit information from which new consumer reports are produced.

135 **SECTION 6.** The requirement under this act to place a
136 security alert or security freeze on a consumer file does not
137 apply to:

138 (a) A check service or fraud prevention service company
139 that issues consumer reports:

140 (i) To prevent or investigate fraud; or

141 (ii) For purposes of approving or processing
142 negotiable instruments, electronic funds transfers, or similar
143 methods of payment; or

144 (b) A deposit account information service company that
145 issues consumer reports related to account closures caused by
146 fraud, substantial overdrafts, automated teller machine abuses, or
147 similar negative information regarding a consumer to an inquiring
148 financial institution for use by the financial institution only in
149 reviewing a consumer request for a deposit account with that
150 institution.

151 **SECTION 7.** A consumer reporting agency shall honor a
152 security freeze placed on a consumer file by another consumer
153 reporting agency.

154 **SECTION 8.** If a third party requests access to a consumer
155 credit report on which a security freeze is in effect, and this
156 request is in connection with an application for credit or any
157 other use, and the consumer does not allow his or her credit

158 report to be accessed for that specific party or period of time,
159 the third party may treat the application as incomplete.

160 **SECTION 9.** This act shall take effect and be in force from
161 and after July 1, 2007.