

By: Senator(s) Mettetal

To: Business and Financial Institutions

SENATE BILL NO. 3034

1 AN ACT TO REQUIRE CONSUMER REPORTING AGENCIES TO PLACE A
2 SECURITY FREEZE IN CONSUMER FILES UPON THE WRITTEN REQUEST BY
3 CERTAIN CONSUMERS; TO PROVIDE FOR REQUIREMENTS AND PROCEDURES
4 RELATING TO A SECURITY FREEZE; TO REQUIRE A CONSUMER REPORTING
5 AGENCY TO MAKE CERTAIN DISCLOSURES RELATING TO A SECURITY FREEZE;
6 AND FOR RELATED 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. A reporting agency may charge a consumer a reasonable
17 fee not to exceed Ten Dollars (\$10.00) to place a security freeze
18 in his file.

19 (2) On written request for a security freeze provided by a
20 consumer under subsection (1), a consumer reporting agency shall
21 disclose to the consumer the process of placing, removing and
22 temporarily lifting a security freeze and the process for allowing
23 access to information from the consumer's file with the consumer
24 reporting agency for a specific requester or period while the
25 security freeze is in effect.

26 (3) A consumer reporting agency shall, not later than the
27 tenth 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 act, the term "security freeze" means a
45 notice that (a) prohibits a consumer reporting agency from
46 releasing a consumer report relating to the consumer, and (b) is
47 placed in the file retained by the consumer reporting agency on
48 that consumer at the consumer's request pursuant to subsection
49 (1).

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

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

63 **SECTION 4.** (1) On a request in writing or by telephone and
64 with proper identification provided by a consumer, including the
65 consumer's personal identification number or password provided
66 under Section 1 of this act, a consumer reporting agency shall
67 remove a security freeze within fifteen (15) minutes after the
68 date the agency receives the request.

69 (2) On a request in writing or by telephone and with proper
70 identification provided by a consumer, including the consumer's
71 personal identification number or password provided under Section
72 1 of this act, a consumer reporting agency shall, within fifteen
73 (15) minutes after the agency receives the request, temporarily
74 lift the security freeze for:

75 (a) A certain properly designated period; or

76 (b) A certain properly identified requester.

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

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

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

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

90 (a) A state or local governmental entity, including a
91 law enforcement agency or court or private collection agency, if

92 the entity, agency or court is acting under a court order,
93 warrant, subpoena or administrative subpoena;

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

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

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

101 (e) A person for the purposes of prescreening as
102 provided by the Fair Credit Reporting Act (15 USC Section 1681 et
103 seq.), as amended;

104 (f) A person who intends to use the information for
105 employment purposes;

106 (g) A person who intends to use the information in
107 connection with adjusting a rate, adjusting a claim, or
108 underwriting of insurance involving the consumer;

109 (h) A person with whom the consumer has an account or
110 contract or to whom the consumer has issued a negotiable
111 instrument, or the person's subsidiary, affiliate, agent,
112 assignee, prospective assignee or private collection agency, for
113 purposes related to that account, contract or instrument;

114 (i) A subsidiary, affiliate, agent, assignee or
115 prospective assignee of a person to whom access has been granted
116 under Section 4(2);

117 (j) A person who administers a credit file monitoring
118 subscription service to which the consumer has subscribed;

119 (k) A person for the purpose of providing a consumer
120 with a copy of the consumer's report on the consumer's request;

121 (l) A check service or fraud prevention service company
122 that issues consumer reports:

123 (i) To prevent or investigate fraud; or

124 (ii) For purposes of approving or processing
125 negotiable instruments, electronic funds transfers or similar
126 methods of payment;

127 (m) A deposit account information service company that
128 issues consumer reports related to account closures caused by
129 fraud, substantial overdrafts, automated teller machine abuses or
130 similar negative information regarding a consumer to an inquiring
131 financial institution for use by the financial institution only in
132 reviewing a consumer request for a deposit account with that
133 institution; or

134 (n) A consumer reporting agency that:

135 (i) Acts only to resell credit information by
136 assembling and merging information contained in a database of
137 another consumer reporting agency or multiple consumer reporting
138 agencies; and

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

141 **SECTION 6.** The requirement under this act to place a
142 security freeze on a consumer file does not apply to:

143 (a) A check service or fraud prevention service company
144 that issues consumer reports:

145 (i) To prevent or investigate fraud; or

146 (ii) For purposes of approving or processing
147 negotiable instruments, electronic funds transfers or similar
148 methods of payment; or

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

156 **SECTION 7.** A consumer reporting agency shall honor a
157 security freeze placed on a consumer file by another consumer
158 reporting agency.

159 **SECTION 8.** If a third party requests access to a consumer
160 report on which a security freeze applies, and this request is in
161 connection with an application for credit or any other use, and
162 the consumer does not immediately request the consumer reporting
163 agency to lift the security freeze and allow his or her credit
164 report to be accessed for that specific party or period of time,
165 the third party may treat the consumer's application as
166 incomplete.

167 **SECTION 9.** The terms "consumer," "consumer report" and
168 "consumer reporting agency" as used in this act shall have the
169 same meanings as given to those respective terms in the Fair
170 Credit Reporting Act (15 USC Section 1681 et seq.), as amended.

171 **SECTION 10.** Sections 1 through 9 of this act shall stand
172 repealed on July 1, 2009.

173 **SECTION 11.** This act shall take effect and be in force from
174 and after July 1, 2007.