

By: Senator(s) Mettetal

To: Business and Financial
Institutions

SENATE BILL NO. 3034
(As Sent to Governor)

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 all or any part of a consumer report or any information
47 derived from a consumer report relating to the extension of
48 credit, and (b) is placed in the file retained by the consumer
49 reporting agency on that consumer at the consumer's request
50 pursuant to subsection (1).

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

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

64 **SECTION 4.** (1) On a request in writing or by telephone and
65 with proper identification provided by a consumer, including the
66 consumer's personal identification number or password provided
67 under Section 1 of this act, a consumer reporting agency shall
68 remove a security freeze within three (3) business days after the
69 agency receives the request.

70 (2) On a request in writing or by telephone and with proper
71 identification provided by a consumer, including the consumer's
72 personal identification number or password provided under Section
73 1 of this act, a consumer reporting agency shall, within three (3)
74 business days after the agency receives the request, temporarily
75 lift the security freeze for:

76 (a) A certain properly designated period; or

77 (b) A certain properly identified requester.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

124 (i) To prevent or investigate fraud; or

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

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

135 (n) A consumer reporting agency that:

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

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

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

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

146 (i) To prevent or investigate fraud; or

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

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

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

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

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

172 **SECTION 10.** This act shall take effect and be in force from
173 and after July 1, 2007.