

By: Representative Moak

To: Banking and Financial  
Services

## HOUSE BILL NO. 341

1 AN ACT TO AMEND SECTION 75-24-201, MISSISSIPPI CODE OF 1972, TO  
2 DELETE THE REQUIREMENT THAT A CONSUMER MUST PROVIDE TO A CONSUMER  
3 REPORTING AGENCY A LAW ENFORCEMENT REPORT REGARDING THE UNLAWFUL USE  
4 OF THE CONSUMER'S PERSONAL INFORMATION BEFORE THE CONSUMER MAY HAVE  
5 A SECURITY FREEZE PLACED ON HIS OR HER CONSUMER FILE; TO CODIFY NEW  
6 SECTION 75-24-216, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY  
7 PERSON WHOSE PROPERTY OR PERSON IS INJURED BY REASON OF A  
8 VIOLATION OF THE SECURITY FREEZE STATUTES MAY SUE FOR CIVIL  
9 DAMAGES; TO AMEND SECTION 75-24-5, MISSISSIPPI CODE OF 1972, TO  
10 PROVIDE THAT ANY VIOLATION OF THE SECURITY FREEZE STATUTES SHALL  
11 BE CONSIDERED AS AN UNFAIR OR DECEPTIVE TRADE PRACTICE; AND FOR  
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 75-24-201, Mississippi Code of 1972, is  
15 amended as follows:

16 75-24-201. (1) On written request sent by certified mail  
17 that includes proper identification provided by a consumer \* \* \*,  
18 a consumer reporting agency shall place a security freeze on a  
19 consumer's consumer file not later than the fifth business day  
20 after the date the agency receives the request. A reporting  
21 agency may charge a consumer a reasonable fee not to exceed Ten  
22 Dollars (\$10.00) to place a security freeze in his file.

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



30 (3) A consumer reporting agency shall, not later than the  
31 tenth business day after the date the agency receives the request  
32 for a security freeze:

33 (a) Send a written confirmation of the security freeze  
34 to the consumer; and

35 (b) Provide the consumer with a unique personal  
36 identification number or password to be used by the consumer to  
37 authorize a removal or temporary lifting of the security freeze  
38 under Section 75-24-207.

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

48 (5) As used in Sections 75-24-201 through 75-24-217, the  
49 term "security freeze" means a notice that (a) prohibits a  
50 consumer reporting agency from releasing all or any part of a  
51 consumer report or any information derived from a consumer report  
52 relating to the extension of credit, and (b) is placed in the file  
53 retained by the consumer reporting agency on that consumer at the  
54 consumer's request under subsection (1).

55 **SECTION 2.** The following shall be codified as Section  
56 75-24-216, Mississippi Code of 1972:

57 75-24-216. (1) Any person whose property or person is  
58 injured by reason of an act made unlawful by Sections 75-24-201  
59 through 75-24-215 may sue for civil damages. Damages may be in an  
60 amount of up to Five Thousand Dollars (\$5,000.00) but no less than  
61 Five Hundred Dollars (\$500.00) for each incident, or three (3)  
62 times the amount of actual damages, whichever amount is greater.



63 A person seeking damages as set forth in this section also may  
64 institute a civil action to enjoin and restrain future acts that  
65 would constitute a violation of this section. The court, in an  
66 action brought under this section, may award reasonable attorneys'  
67 fees to the prevailing party.

68 **SECTION 3.** Section 75-24-5, Mississippi Code of 1972, is  
69 amended as follows:

70 75-24-5. (1) Unfair methods of competition affecting  
71 commerce and unfair or deceptive trade practices in or affecting  
72 commerce are prohibited. Action may be brought under Section  
73 75-24-5(1) only under the provisions of Section 75-24-9.

74 (2) Without limiting the scope of subsection (1) of this  
75 section, the following unfair methods of competition and unfair or  
76 deceptive trade practices or acts in the conduct of any trade or  
77 commerce are \* \* \* prohibited:

78 (a) Passing off goods or services as those of another;

79 (b) Misrepresentation of the source, sponsorship,  
80 approval, or certification of goods or services;

81 (c) Misrepresentation of affiliation, connection, or  
82 association with, or certification by another;

83 (d) Misrepresentation of designations of geographic  
84 origin in connection with goods or services;

85 (e) Representing that goods or services have  
86 sponsorship, approval, characteristics, ingredients, uses,  
87 benefits, or quantities that they do not have or that a person has  
88 a sponsorship, approval, status, affiliation, or connection that  
89 he does not have;

90 (f) Representing that goods are original or new if they  
91 are reconditioned, reclaimed, used, or secondhand;

92 (g) Representing that goods or services are of a  
93 particular standard, quality, or grade, or that goods are of a  
94 particular style or model, if they are of another;



95 (h) Disparaging the goods, services, or business of  
96 another by false or misleading representation of fact;

97 (i) Advertising goods or services with intent not to  
98 sell them as advertised;

99 (j) Advertising goods or services with intent not to  
100 supply reasonably expectable public demand, unless the  
101 advertisement discloses a limitation of quantity;

102 (k) Misrepresentations of fact concerning the reasons  
103 for, existence of, or amounts of price reductions;

104 (l) Advertising by or on behalf of any licensed or  
105 regulated health care professional which does not specifically  
106 describe the license or qualifications of the licensed or  
107 regulated health care professional;

108 (m) Charging an increased premium for reinstating a  
109 motor vehicle insurance policy that was cancelled or suspended by  
110 the insured solely for the reason that he was transferred out of  
111 this state while serving in the United States Armed Forces or on  
112 active duty in the National Guard or United States Armed Forces  
113 Reserve. It is also an unfair practice for an insurer to charge  
114 an increased premium for a new motor vehicle insurance policy if  
115 the applicant for coverage or his covered dependents were  
116 previously insured with a different insurer and canceled that  
117 policy solely for the reason that he was transferred out of this  
118 state while serving in the United States Armed Forces or on active  
119 duty in the National Guard or United States Armed Forces Reserve.  
120 For purposes of determining premiums, an insurer shall consider  
121 such persons as having maintained continuous coverage. The  
122 provisions of this paragraph (m) shall apply only to such  
123 instances when the insured does not drive the vehicle during the  
124 period of cancellation or suspension of his policy;

125 (n) Any violation of Sections 75-24-201 through  
126 75-24-217.



127           **SECTION 4.** This act shall take effect and be in force from  
128 and after July 1, 2010.

