

By: Representative Jones (111th)

To: Banking and Financial
Services

HOUSE BILL NO. 564

1 AN ACT TO AMEND SECTION 75-24-201, MISSISSIPPI CODE OF 1972,
 2 TO DELETE THE REQUIREMENT THAT A CONSUMER MUST PROVIDE TO A
 3 CONSUMER REPORTING AGENCY A LAW ENFORCEMENT REPORT REGARDING THE
 4 UNLAWFUL USE OF THE CONSUMER'S PERSONAL INFORMATION BEFORE THE
 5 CONSUMER MAY HAVE A SECURITY FREEZE PLACED ON HIS OR HER CONSUMER
 6 FILE; TO PROVIDE THAT A SECURITY FREEZE SHALL REMAIN IN EFFECT
 7 UNTIL THE CONSUMER REQUESTS THAT THE SECURITY FREEZE BE REMOVED;
 8 TO PROVIDE THAT A CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE
 9 TO A VICTIM OF IDENTITY THEFT WHO HAS SUBMITTED A COPY OF A VALID
 10 REPORT OR COMPLAINT WITH A LAW ENFORCEMENT AGENCY ABOUT THE
 11 UNLAWFUL USE OF THE VICTIM'S IDENTIFYING INFORMATION BY ANOTHER
 12 PERSON; TO PROVIDE THAT THE UNIQUE PERSONAL IDENTIFICATION NUMBER
 13 OR PASSWORD PROVIDED BY A CONSUMER REPORTING AGENCY TO A CONSUMER
 14 TO AUTHORIZE A REMOVAL OR TEMPORARY LIFTING OF THE SECURITY FREEZE
 15 MAY NOT BE THE CONSUMER'S SOCIAL SECURITY NUMBER; TO CREATE NEW
 16 SECTION 75-24-202, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 17 NOTICE BE PROVIDED TO A CONSUMER WHENEVER THE CONSUMER IS REQUIRED
 18 TO RECEIVE A SUMMARY OF RIGHTS REQUIRED UNDER THE FEDERAL FAIR
 19 CREDIT REPORTING ACT, STATING THE MISSISSIPPI CONSUMERS HAVE THE
 20 RIGHT TO OBTAIN A SECURITY FREEZE; TO PRESCRIBE THE CONTENTS OF
 21 THE NOTICE; TO AMEND SECTION 75-24-207, MISSISSIPPI CODE OF 1972,
 22 TO AUTHORIZE A CONSUMER REPORTING AGENCY TO CHARGE A CONSUMER A
 23 FEE TO REMOVE A SECURITY FREEZE OR TEMPORARILY LIFT A SECURITY
 24 FREEZE, EXCEPT FOR A CONSUMER WHO IS VICTIM OF IDENTITY THEFT WHO
 25 HAS SUBMITTED A COPY OF A VALID INVESTIGATIVE OR INCIDENT REPORT
 26 OR COMPLAINT WITH A LAW ENFORCEMENT AGENCY ABOUT THE UNLAWFUL USE
 27 OF THE VICTIM'S IDENTIFYING INFORMATION BY ANOTHER PERSON; TO
 28 AMEND SECTION 75-24-209, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 29 A SECURITY FREEZE DOES NOT APPLY TO A CONSUMER REPORT PROVIDED TO
 30 CERTAIN ADDITIONAL PERSONS OR ENTITIES; TO CREATE NEW SECTION
 31 75-24-216, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
 32 WHOSE PROPERTY OR PERSON IS INJURED BY REASON OF A VIOLATION OF
 33 THE SECURITY FREEZE STATUTES MAY SUE FOR CIVIL DAMAGES AND
 34 INJUNCTIVE RELIEF; TO AMEND SECTION 75-24-5, MISSISSIPPI CODE OF
 35 1972, TO PROVIDE THAT ANY VIOLATION OF THE SECURITY FREEZE
 36 STATUTES SHALL BE CONSIDERED AS AN UNFAIR OR DECEPTIVE TRADE
 37 PRACTICE; AND FOR RELATED PURPOSES.

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

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

41 75-24-201. (1) On written request sent by certified mail
 42 that includes proper identification provided by a consumer * * *,



43 a consumer reporting agency shall place a security freeze on a
44 consumer's consumer file not later than the fifth business day
45 after the date the agency receives the request. Except as
46 otherwise provided in Section 75-24-207(4), a security freeze
47 shall remain in effect until the consumer requests that the
48 security freeze be removed. A consumer reporting agency may
49 charge a consumer a reasonable fee not to exceed Ten Dollars
50 (\$10.00) to place a security freeze in his file, except that a
51 consumer reporting agency may not charge any fee to a victim of
52 identity theft who has submitted a copy of a valid investigative
53 or incident report or complaint with a law enforcement agency
54 about the unlawful use of the victim's identifying information by
55 another person.

56 (2) On written request for a security freeze provided by a
57 consumer under subsection (1) of this section, a consumer
58 reporting agency shall disclose to the consumer the process of
59 placing, removing and temporarily lifting a security freeze and
60 the process for allowing access to information from the consumer's
61 file with the consumer reporting agency for a specific requester
62 or period while the security freeze is in effect.

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

66 (a) Send a written confirmation of the security freeze
67 to the consumer; and

68 (b) Provide the consumer with a unique personal
69 identification number or password, other than the consumer's
70 social security number, to be used by the consumer to authorize a
71 removal or temporary lifting of the security freeze under Section
72 75-24-207.

73 (4) A consumer may request in writing a replacement personal
74 identification number or password. The request must comply with
75 the requirements for requesting a security freeze under subsection



76 (1). The consumer reporting agency shall, not later than the
77 third business day after the date the agency receives the request
78 for a replacement personal identification number or password,
79 provide the consumer with a new unique personal identification
80 number or password to be used by the consumer instead of the
81 number or password that was provided under subsection (3) of this
82 section.

83 (5) As used in Sections 75-24-201 through 75-24-217, the
84 term "security freeze" means a notice that (a) prohibits a
85 consumer reporting agency from releasing all or any part of a
86 consumer report or any information derived from a consumer report
87 relating to the extension of credit, and (b) is placed in the file
88 retained by the consumer reporting agency on that consumer at the
89 consumer's request under subsection (1) of this section.

90 **SECTION 2.** The following shall be codified as Section
91 75-24-202, Mississippi Code of 1972:

92 75-24-202. At any time that a consumer is required to
93 receive a summary of rights required under Section 609 of the
94 federal Fair Credit Reporting Act, the following notice shall be
95 included:

96 **"Mississippi Consumers Have the Right to Obtain a Security Freeze.**

97 You have a right to place a "security freeze" on your
98 consumer credit report under Mississippi law. The security freeze
99 will prohibit a consumer reporting agency from releasing any
100 information in your consumer credit report without your express
101 authorization. A security freeze must be requested in writing by
102 certified mail.

103 The security freeze is designed to prevent credit, loans, and
104 services from being approved in your name without your consent.
105 However, you should be aware that using a security freeze to take
106 control over who gains access to the personal and financial
107 information in your consumer credit report may delay, interfere
108 with, or prohibit the timely approval of any later request or



109 application you make regarding new loans, credit, mortgage,
110 insurance, rental housing, employment, investment, license,
111 cellular phone, utilities, digital signature, Internet credit card
112 transactions, or other services, including an extension of credit
113 at point of sale.

114 The security freeze will be placed on your credit report
115 within five (5) business days after your request. When you place
116 a security freeze on your credit report, you will be provided,
117 within ten (10) business days after your request, a personal
118 identification number or a password to use when you want to remove
119 or temporarily lift the security freeze.

120 A security freeze does not apply when you have an existing
121 account relationship and a copy of your report is requested by
122 your existing creditor or its agents or affiliates for certain
123 types of account review, collection, fraud control, or similar
124 activities.

125 You should plan ahead and lift a security freeze if you are
126 actively seeking credit or services, as a security freeze may slow
127 your applications, as mentioned above.

128 You can remove a security freeze or authorize temporary
129 access for a specific period of time by contacting the consumer
130 reporting agency and providing all of the following:

- 131 (1) Your personal identification number or password;
- 132 (2) Proper identification to verify your identity; and
- 133 (3) Proper information regarding the period of time that you
134 want your report available to users of the credit report or a
135 properly identified requestor.

136 A consumer reporting agency that receives a request from you
137 to temporarily lift a security freeze on a consumer report shall
138 comply with the request no later than three (3) business days
139 after receiving the request.

140 A consumer reporting agency may charge you up to Ten Dollars
141 (\$10.00) for each time that you place a security freeze, remove



142 the security freeze, or temporarily lift the security freeze for a
143 period of time, except that a consumer reporting agency may not
144 charge any amount to a victim of identify theft who has submitted
145 a copy of a valid investigative or incident report or complaint
146 with a law enforcement agency about the unlawful use of the
147 victim's identifying information by another person.

148 You have a right to bring a civil action against someone who
149 violates your rights under the credit reporting laws. The action
150 can be brought against a consumer reporting agency or a user of
151 your credit report."

152 **SECTION 3.** Section 75-24-207, Mississippi Code of 1972, is
153 amended as follows:

154 75-24-207. (1) On a request in writing or by telephone and
155 with proper identification provided by a consumer, including the
156 consumer's personal identification number or password provided
157 under Section 75-24-201, a consumer reporting agency shall remove
158 a security freeze within three (3) business days after the agency
159 receives the request.

160 (2) On a request in writing or by telephone and with proper
161 identification provided by a consumer, including the consumer's
162 personal identification number or password provided under Section
163 75-24-201, a consumer reporting agency shall, within three (3)
164 business days after the agency receives the request, temporarily
165 lift the security freeze for:

166 (a) A certain properly designated period; or

167 (b) A certain properly identified requester.

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

172 (4) A consumer reporting agency shall remove a security
173 freeze placed on a consumer file if the security freeze was placed
174 due to a material misrepresentation of fact by the consumer. The



175 consumer reporting agency shall notify the consumer in writing
176 before removing the security freeze under this subsection.

177 (5) A consumer reporting agency may * * * charge a
178 consumer a reasonable fee not to exceed Ten Dollars (\$10.00) for a
179 request to remove a security freeze under subsection (1) of this
180 section or a request to temporarily lift a security freeze under
181 subsection (2) of this section, except that a consumer reporting
182 agency may not charge any fee to a victim of identity theft who
183 has submitted a copy of a valid investigative or incident report
184 or complaint with a law enforcement agency about the unlawful use
185 of the victim's identifying information by another person.

186 **SECTION 4.** Section 75-24-209, Mississippi Code of 1972, is
187 amended as follows:

188 75-24-209. A security freeze does not apply to a consumer
189 report provided to:

190 (a) A state or local governmental entity, including a
191 law enforcement agency or court or private collection agency, if
192 the entity, agency or court is acting under a court order,
193 warrant, subpoena or administrative subpoena;

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

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

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

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

204 (f) A person who intends to use the information for
205 employment purposes;



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

209 (h) A person with whom the consumer has an account or
210 contract or to whom the consumer has issued a negotiable
211 instrument, or the person's subsidiary, affiliate, agent,
212 assignee, prospective assignee or private collection agency, for
213 purposes related to that account, contract or instrument;

214 (i) A subsidiary, affiliate, agent, assignee or
215 prospective assignee of a person to whom access has been granted
216 under Section 75-24-207(2);

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

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

221 (l) A check service or fraud prevention service company
222 that issues consumer reports:

223 (i) To prevent or investigate fraud; or

224 (ii) For purposes of approving or processing
225 negotiable instruments, electronic funds transfers or similar
226 methods of payment;

227 (m) A deposit account information service company that
228 issues consumer reports related to account closures caused by
229 fraud, substantial overdrafts, automated teller machine abuses or
230 similar negative information regarding a consumer to an inquiring
231 financial institution for use by the financial institution only in
232 reviewing a consumer request for a deposit account with that
233 institution; * * *

234 (n) A consumer reporting agency that:

235 (i) Acts only to resell credit information by
236 assembling and merging information contained in a database of
237 another consumer reporting agency or multiple consumer reporting
238 agencies; and



239 (ii) Does not maintain a permanent database of
240 credit information from which new consumer reports are produced;
241 (o) A state or local agency, or its agents or assigns,
242 acting to investigate fraud, including Medicaid fraud, or acting
243 to investigate or collect delinquent taxes or assessments,
244 including interest and penalties, unpaid court orders, or to
245 fulfill any of its other statutory responsibilities;
246 (p) A federal, state, or local governmental entity,
247 including law enforcement agency, court, or its agent or assigns;
248 (q) A person for the purposes of prescreening as
249 defined by the Fair Credit Reporting Act, 15 USCS Section 1681(b)
250 et seq.;
251 (r) Any person for the sole purpose of providing for a
252 credit file monitoring subscription service to which the consumer
253 has subscribed;
254 (s) A consumer reporting agency for the purpose of
255 providing a consumer with a copy of the consumer's credit report
256 upon the consumer's request; or
257 (t) Any depository financial institution for checking,
258 savings, and investment accounts.

259 **SECTION 5.** The following shall be codified as Section
260 75-24-216, Mississippi Code of 1972:

261 75-24-216. (1) A violation of Sections 75-24-201 through
262 75-24-217 is a violation of Section 75-24-5.

263 (2) Any person whose property or person is injured by reason
264 of an act made unlawful by Sections 75-24-201 through 75-24-215
265 may sue for civil damages. Damages may be in an amount of up to
266 Five Thousand Dollars (\$5,000.00) but no less than Five Hundred
267 Dollars (\$500.00) for each incident, or three (3) times the amount
268 of actual damages, whichever amount is greater. A person seeking
269 damages as set forth in this section also may institute a civil
270 action to enjoin and restrain future acts that would constitute a
271 violation of Sections 75-24-201 through 75-24-215. The court, in



272 an action brought under this section, may award reasonable
273 attorney's fees to the prevailing party.

274 **SECTION 6.** Section 75-24-5, Mississippi Code of 1972, is
275 amended as follows:

276 75-24-5. (1) Unfair methods of competition affecting
277 commerce and unfair or deceptive trade practices in or affecting
278 commerce are prohibited. Action may be brought under Section
279 75-24-5(1) only under the provisions of Section 75-24-9.

280 (2) Without limiting the scope of subsection (1) of this
281 section, the following unfair methods of competition and unfair or
282 deceptive trade practices or acts in the conduct of any trade or
283 commerce are * * * prohibited:

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

285 (b) Misrepresentation of the source, sponsorship,
286 approval, or certification of goods or services;

287 (c) Misrepresentation of affiliation, connection, or
288 association with, or certification by another;

289 (d) Misrepresentation of designations of geographic
290 origin in connection with goods or services;

291 (e) Representing that goods or services have
292 sponsorship, approval, characteristics, ingredients, uses,
293 benefits, or quantities that they do not have or that a person has
294 a sponsorship, approval, status, affiliation, or connection that
295 he does not have;

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

298 (g) Representing that goods or services are of a
299 particular standard, quality, or grade, or that goods are of a
300 particular style or model, if they are of another;

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

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



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

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

310 (l) Advertising by or on behalf of any licensed or
311 regulated health care professional which does not specifically
312 describe the license or qualifications of the licensed or
313 regulated health care professional;

314 (m) Charging an increased premium for reinstating a
315 motor vehicle insurance policy that was cancelled or suspended by
316 the insured solely for the reason that he was transferred out of
317 this state while serving in the United States Armed Forces or on
318 active duty in the National Guard or United States Armed Forces
319 Reserve. It is also an unfair practice for an insurer to charge
320 an increased premium for a new motor vehicle insurance policy if
321 the applicant for coverage or his covered dependents were
322 previously insured with a different insurer and canceled that
323 policy solely for the reason that he was transferred out of this
324 state while serving in the United States Armed Forces or on active
325 duty in the National Guard or United States Armed Forces Reserve.
326 For purposes of determining premiums, an insurer shall consider
327 such persons as having maintained continuous coverage. The
328 provisions of this paragraph (m) shall apply only to such
329 instances when the insured does not drive the vehicle during the
330 period of cancellation or suspension of his policy;

331 (n) Any violation of Sections 75-24-201 through
332 75-24-217.

333 **SECTION 7.** This act shall take effect and be in force from
334 and after July 1, 2011.

