

HOUSE BILL NO. 1311

1 AN ACT AUTHORIZING CONSUMERS TO PLACE A SECURITY FREEZE IN
2 CERTAIN FILES MAINTAINED BY A CREDIT REPORTING AGENCY; TO PROVIDE
3 FOR CERTAIN REQUIREMENTS AND PROCEDURES RELATING TO A SECURITY
4 FREEZE; TO REQUIRE A CREDIT REPORTING AGENCY TO MAKE CERTAIN
5 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) As used in this section, the term "security
9 freeze" means a notice that is placed in the file of a consumer at
10 the request of the consumer under subsection (2).

11 (2) (a) A consumer may place a security freeze in his file
12 with a credit reporting agency by making a request in writing by
13 certified mail to the reporting agency. At the time of the
14 request, the consumer must provide to the reporting agency
15 sufficient identification to establish the identity of the
16 consumer.

17 (b) A reporting agency shall place a security freeze
18 in the file of a consumer not later than five (5) business days
19 after the reporting agency receives a request from the consumer to
20 place the security freeze in his file.

21 (c) Not later than ten (10) business days after the
22 placement of the security freeze in the file of the consumer, the
23 reporting agency shall send written confirmation to the consumer
24 of the placement of the security freeze in his file and provide
25 the consumer with:

26 (i) A unique personal identification number or
27 password, which is not the social security number of the consumer,
28 to be used by the consumer to authorize the temporary release of

29 the consumer report pursuant to subsection (7) or the removal of a
30 security freeze from the file pursuant to subsection (8);

31 (ii) Information explaining the procedures by
32 which a consumer may contact the reporting agency to authorize the
33 temporary release of his consumer report pursuant to subsection
34 (7) or the removal of a security freeze from his file pursuant to
35 subsection (8); and

36 (iii) The written disclosure required pursuant to
37 subsection (3).

38 (d) A consumer may request in writing a replacement
39 personal identification number or password. At the time of the
40 request, the consumer must provide to the reporting agency
41 sufficient identification to establish the identity of the
42 consumer. Not later than ten (10) business days after receiving
43 the request, the reporting agency shall provide the consumer with
44 a new, unique personal identification number or password, which is
45 not the social security number of the consumer, to be used by the
46 consumer instead of the number or password that was provided
47 pursuant to paragraph (c)(i).

48 (e) Except as otherwise provided in subsections (7),
49 (8) and (9), a reporting agency shall not remove a security freeze
50 placed in the file of a consumer.

51 (f) The presence of a security freeze in the file of a
52 consumer must not be considered to be an adverse factor in the
53 consumer's credit worthiness, credit standing or credit capacity.

54 (3) If a consumer requests that a security freeze be placed
55 in his file, a reporting agency shall provide a written disclosure
56 of the rights of the consumer. The written disclosure is
57 sufficient if it is in substantially the following form:

58 "You have a right to place a security freeze in your file
59 which will prohibit a reporting agency from releasing any
60 information in your file without your express authorization.

61 A security freeze must be requested in writing by certified mail.
62 The security freeze is designed to prevent a reporting agency from
63 releasing your consumer report without your consent. However, you
64 should be aware that using a security freeze to take control over
65 who is allowed access to the personal and financial information in
66 your file may delay, interfere with or prohibit the timely
67 approval of any subsequent request or application you make
68 regarding a new loan, credit, mortgage, insurance, government
69 services or payments, rental housing, employment, investment,
70 license, cellular telephone, utilities, digital signature,
71 Internet credit card transaction or other services, including an
72 extension of credit at point of sale. When you place a security
73 freeze in your file, you will be provided a personal
74 identification number or password to use if you choose to remove
75 the security freeze from your file or to authorize the temporary
76 release of your consumer report for a specific person or period
77 after the security freeze is in place. To provide that
78 authorization, you must contact the reporting agency and provide
79 all the following:

80 (a) Sufficient identification to verify your identity.

81 (b) Your personal identification number or password
82 provided by the reporting agency.

83 (c) A statement that you choose to remove the security
84 freeze from your file or that you authorize the reporting agency
85 to temporarily release your consumer report. If you authorize the
86 temporary release of your consumer report, you must name the
87 person who is to receive your consumer report or the period for
88 which your consumer report must be available. A reporting agency
89 must remove the security freeze from your file or authorize the
90 temporary release of your consumer report not later than three (3)
91 business days after receiving the above information.

92 A security freeze does not apply to certain persons,
93 including a person, or collection agencies acting on behalf of a

94 person, with whom you have an existing account that requests
95 information in your consumer report for the purposes of reviewing
96 or collecting the account."

97 (4) (a) Except as otherwise provided in this subsection:

98 (i) A reporting agency may charge a consumer a
99 reasonable fee, not to exceed Ten Dollars (\$10.00), to place a
100 security freeze in his file.

101 (ii) After a security freeze has been placed in the
102 file of a consumer, a reporting agency may charge the consumer a
103 reasonable fee:

104 1. Not to exceed Ten Dollars (\$10.00), to remove
105 the security freeze from his file pursuant to subsection (8).

106 2. Not to exceed Ten Dollars (\$10.00), to
107 temporarily release his consumer report for a specific period
108 pursuant to subsection (7).

109 3. Not to exceed Ten Dollars (\$10.00), to
110 temporarily release his consumer report to a specific person
111 pursuant to subsection (7).

112 (b) A reporting agency may not charge a consumer the
113 fees set forth in paragraph (a) to place a security freeze in his
114 file, to temporarily release his consumer report for a specific
115 period or to a specific person, or to remove a security freeze
116 from his file if the consumer is a victim of identity theft and
117 the consumer submits, at the time the security freeze is
118 requested, a valid copy of a police report, investigative report
119 or complaint which the consumer has filed with a law enforcement
120 agency regarding the unlawful use of the personal information of
121 the consumer by another person.

122 (c) On January 1 of each year, a reporting agency may
123 increase the fees set forth in paragraph (a) based proportionally
124 on changes to the Consumer Price Index of All Urban Consumers, as
125 determined by the United States Department of Labor, with
126 fractional changes rounded to the nearest Twenty-five Cents (25¢).

127 (5) (a) After a security freeze has been placed in the file
128 of a consumer, a reporting agency shall not make any changes to
129 the file of the consumer relating to:

130 (i) The name of the consumer;

131 (ii) The date of birth of the consumer;

132 (iii) The social security number of the consumer;

133 or

134 (iv) The address of the consumer, unless the
135 reporting agency sends written confirmation of the change to the
136 consumer not later than thirty (30) calendar days after the change
137 is posted to the file of the consumer.

138 (b) If the reporting agency changes the address of the
139 consumer, the reporting agency must send written confirmation of
140 the change of address to both the new address and the former
141 address of the consumer.

142 (c) The provisions of this subsection do not require a
143 reporting agency to send written confirmation to a consumer
144 concerning technical corrections made by the reporting agency to
145 information in the file of the consumer, including, without
146 limitation, technical corrections involving the abbreviation of a
147 name or street, the transposition of numbers or letters, or the
148 misspelling of a word.

149 (6) (a) Except as otherwise provided in subsections (7)
150 through (10), if a security freeze has been placed in the file of
151 a consumer, a reporting agency shall not provide a consumer report
152 of that consumer to any person.

153 (b) If, in connection with an application for credit or
154 any other use, a third party requests access to a consumer report
155 on which a security freeze is in effect and the consumer does not
156 allow his consumer report to be accessed for that specific third
157 party or period of time, the third party may treat the application
158 as incomplete.

159 (7) (a) To authorize the temporary release of a consumer
160 report after a security freeze has been placed in the file of the
161 consumer, the consumer must contact the reporting agency and
162 request that his consumer report be temporarily released to a
163 specific person or for a specific period. At the time of the
164 request, the consumer must provide to the reporting agency:

165 (i) Sufficient identification to establish the
166 identity of the consumer;

167 (ii) The personal identification number or
168 password provided by the reporting agency pursuant to subsection
169 (2)(c)(i); and

170 (iii) Information regarding the specific person or
171 the specific period for which the consumer report must be
172 temporarily released.

173 (b) A reporting agency that receives a request from a
174 consumer pursuant to paragraph (a) shall, not later than three (3)
175 business days after receiving the request, temporarily release the
176 consumer report to the specific person or for the specific period
177 requested by the consumer.

178 (c) A reporting agency shall develop procedures for a
179 consumer to contact the reporting agency to authorize the
180 temporary release of his consumer report pursuant to paragraph
181 (a). These procedures may include, without limitation, the use of
182 the telephone, facsimile machine, the Internet or other electronic
183 media by a consumer to authorize the temporary release of his
184 consumer report in an expedited manner.

185 (8) (a) To authorize the removal of a security freeze that
186 has been placed in the file of a consumer, the consumer must
187 contact the reporting agency and request that the security freeze
188 be removed. At the time of the request, the consumer must provide
189 to the reporting agency:

190 (i) Sufficient identification to establish the
191 identity of the consumer; and

192 (ii) The personal identification number or
193 password provided by the reporting agency pursuant to subsection
194 (2)(c)(i).

195 (b) A reporting agency that receives a request from a
196 consumer pursuant to paragraph (a) shall, not later than three (3)
197 business days after receiving the request:

198 (i) Remove the security freeze from the file of
199 the consumer; and

200 (ii) Send written notice to the consumer that the
201 security freeze has been removed from the file of the consumer.

202 (c) A reporting agency shall develop procedures for a
203 consumer to contact the reporting agency to authorize the removal
204 of a security freeze pursuant to paragraph (a). These procedures
205 may include, without limitation, the use of a telephone, a
206 facsimile machine, the Internet or other electronic media by a
207 consumer to authorize the removal of a security freeze in an
208 expedited manner.

209 (9) (a) A reporting agency may remove a security freeze
210 from the file of a consumer if the reporting agency has a
211 reasonable belief that:

212 (i) The security freeze was placed in the file of
213 the consumer because of a material misrepresentation of fact by
214 the consumer; or

215 (ii) The consumer placed the security freeze in
216 his file for the purposes of:

- 217 1. Committing fraud;
- 218 2. Committing any other act prohibited by
219 law; or
- 220 3. Aiding and abetting any act prohibited by
221 law.

222 (b) If a reporting agency intends to remove a security
223 freeze from the file of a consumer pursuant to paragraph (a), the

224 reporting agency shall send written notice to the consumer before
225 removing the security freeze.

226 (10) Notwithstanding that a security freeze has been placed
227 in the file of a consumer, a reporting agency may release the
228 consumer report of the consumer to:

229 (a) A person with whom the consumer has an existing
230 business relationship, or the subsidiary, affiliate or agent of
231 that person, for any purpose relating to that business
232 relationship.

233 (b) A licensed collection agency to which an account of
234 the consumer has been assigned for the purposes of collection.

235 (c) A person with whom the consumer has an account or
236 contract or to whom the consumer has issued a negotiable
237 instrument, or the subsidiary, affiliate, agent, assignee or
238 prospective assignee of that person, for purposes relating to that
239 account, contract or negotiable instrument.

240 (d) A person seeking to use information in the file of
241 the consumer for the purposes of prescreening pursuant to the Fair
242 Credit Reporting Act, 15 USCS Sections 1681 et seq.

243 (e) A subsidiary, affiliate, agent, assignee or
244 prospective assignee of a person to whom access has been granted
245 pursuant to subsection (7) for the purposes of facilitating the
246 extension of credit.

247 (f) A person seeking to provide the consumer with a
248 copy of the consumer report or the credit score of the consumer
249 upon the request of the consumer.

250 (g) A person administering a credit file monitoring
251 subscription service to which the consumer has subscribed.

252 (h) A person requesting the consumer report pursuant to
253 a court order, warrant or subpoena.

254 (i) A federal, state or local governmental entity,
255 agency or instrumentality that is acting within the scope of its
256 authority, including, without limitation, an agency which is

257 seeking to collect child support payments pursuant to Part D of
258 Title IV of the Social Security Act, 42 USCS Section 651 et seq.

259 (j) A person holding a license issued by the
260 Mississippi Gaming Commission, or the subsidiary, affiliate,
261 agent, assignee or prospective assignee of that person, for
262 purposes relating to any activities conducted pursuant to the
263 license.

264 (k) An employer, or the subsidiary, affiliate, agent,
265 assignee or prospective assignee of that employer, for purposes
266 of:

267 (i) Preemployment screenings relating to the
268 consumer; or

269 (ii) Decisions or investigations relating to the
270 consumer's current or former employment with the employer.

271 (11) The following companies are not required to place a
272 security freeze in the file of a consumer:

273 (a) A check services or fraud prevention services
274 company which issues reports on incidents of fraud or
275 authorizations for the purpose of approving or processing
276 negotiable instruments, electronic funds transfers or similar
277 methods of payments.

278 (b) A deposit account information service company which
279 issues reports regarding account closures because of fraud,
280 substantial overdrafts, abuse of automatic teller machines or
281 similar negative information regarding a consumer to inquiring
282 banks or other financial institutions for use only in reviewing a
283 consumer request for a deposit account at the inquiring bank or
284 financial institution.

285 (c) A reporting agency which acts only as a reseller of
286 credit information by assembling and merging information contained
287 in the database of another reporting agency or in the databases of
288 multiple reporting agencies and which does not maintain a
289 permanent database of consumer credit information from which new

290 consumer reports are produced. Such a reporting agency shall
291 honor any security freeze placed on a consumer report by another
292 reporting agency.

293 **SECTION 2.** This act shall take effect and be in force from
294 and after July 1, 2006.