

By: Representative Clark

To: Banking and Financial
Services

HOUSE BILL NO. 1410

1 AN ACT TO AUTHORIZE CONSUMERS TO PLACE A SECURITY ALERT IN
2 THEIR CREDIT REPORTS MAINTAINED BY CONSUMER CREDIT REPORTING
3 AGENCIES; TO PROVIDE FOR CERTAIN REQUIREMENTS AND PROCEDURES
4 RELATING TO A SECURITY ALERT; TO AUTHORIZE CONSUMERS TO PLACE A
5 SECURITY FREEZE IN THEIR CREDIT REPORTS MAINTAINED BY CONSUMER
6 CREDIT REPORTING AGENCIES; TO PROVIDE FOR CERTAIN REQUIREMENTS AND
7 PROCEDURES RELATING TO A SECURITY FREEZE; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** (1) A consumer may elect to place a security
11 alert in his or her credit report by making a request in writing
12 or by telephone to a consumer credit reporting agency. "Security
13 alert" means a notice placed in a consumer's credit report, at the
14 request of the consumer, that notifies a recipient of the credit
15 report that the consumer's identity may have been used without the
16 consumer's consent to fraudulently obtain goods or services in the
17 consumer's name.

18 (2) A consumer credit reporting agency shall notify each
19 person requesting consumer credit information with respect to a
20 consumer of the existence of a security alert in the credit report
21 of that consumer, regardless of whether a full credit report,
22 credit score, or summary report is requested.

23 (3) Each consumer credit reporting agency shall maintain a
24 toll-free telephone number to accept security alert requests from
25 consumers twenty-four (24) hours a day, seven (7) days a week.

26 (4) The toll-free telephone number shall be included in any
27 written disclosure by a consumer credit reporting agency to any
28 consumer and shall be printed in a clear and conspicuous manner.

29 (5) A consumer credit reporting agency shall place a
30 security alert on a consumer's credit report no later than five
31 (5) business days after receiving a request from the consumer.

32 (6) The security alert shall remain in place for at least
33 ninety (90) days, and a consumer shall have the right to request a
34 renewal of the security alert.

35 (7) Any person who uses a consumer credit report in
36 connection with the approval of credit based on an application for
37 an extension of credit, or with the purchase, lease, or rental of
38 goods or noncredit-related services and who receives notification
39 of a security alert pursuant to subsection (1) may not lend money,
40 extend credit, or complete the purchase, lease, or rental of goods
41 or noncredit-related services without taking reasonable steps to
42 verify the consumer's identity, in order to ensure that the
43 application for an extension of credit or for the purchase, lease,
44 or rental of goods or noncredit-related services is not the result
45 of identity theft. If the consumer has placed a statement with
46 the security alert in his or her file requesting that identity be
47 verified by calling a specified telephone number, any person who
48 receives that statement with the security alert in a consumer's
49 file pursuant to subsection (1) shall take reasonable steps to
50 verify the identity of the consumer by contacting the consumer
51 using the specified telephone number before lending money,
52 extending credit, or completing the purchase, lease, or rental of
53 goods or noncredit-related services. If a person uses a consumer
54 credit report to facilitate the extension of credit or for another
55 permissible purpose on behalf of a subsidiary, affiliate, agent,
56 assignee, or prospective assignee, that person may verify a
57 consumer's identity under this section in lieu of the subsidiary,
58 affiliate, agent, assignee, or prospective assignee.

59 (8) For purposes of this section, "extension of credit" does
60 not include an increase in the dollar limit of an existing
61 open-end credit plan, as defined in Regulation Z issued by the

Board of Governors of the Federal Reserve System (12 CFR 226.2),
or any change to, or review of, an existing credit account.

(9) If reasonable steps are taken to verify the identity of the consumer, those steps constitute compliance with the requirements of this section, except that if a consumer has placed a statement including a telephone number with the security alert in his or her file, his or her identity shall be verified by contacting the consumer using that telephone number as specified pursuant to subsection (7).

(10) A consumer credit reporting agency shall notify each consumer who has requested that a security alert be placed on his or her consumer credit report of the expiration date of the alert.

(11) Any consumer credit reporting agency that recklessly, willfully, or intentionally fails to place a security alert pursuant to this section shall be liable for a civil penalty in an amount of up to Two Thousand Five Hundred Dollars (\$2,500) and reasonable attorneys' fees.

SECTION 2. (1) A consumer may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency.

"Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) A consumer credit reporting agency shall place a security freeze on a consumer's credit report no later than five

95 (5) business days after receiving a written request from the
96 consumer.

97 (3) The consumer credit reporting agency shall send a
98 written confirmation of the security freeze to the consumer within
99 ten (10) business days and shall provide the consumer with a
100 unique personal identification number or password to be used by
101 the consumer when providing authorization for the release of his
102 or her credit for a specific party or period of time.

103 (4) If the consumer wishes to allow his or her credit report
104 to be accessed for a specific party or period of time while a
105 freeze is in place, he or she shall contact the consumer credit
106 reporting agency, request that the freeze be temporarily lifted,
107 and provide the following:

108 (a) Proper identification; and

109 (b) The unique personal identification number or
110 password provided by the credit reporting agency pursuant to
111 subsection (3); and

112 (c) The proper information regarding the third party
113 who is to receive the credit report or the time period for which
114 the report shall be available to users of the credit report.

115 (5) A consumer credit reporting agency that receives a
116 request from a consumer to temporarily lift a freeze on a credit
117 report pursuant to subsection (4) shall comply with the request no
118 later than three (3) business days after receiving the request.

119 (6) A consumer credit reporting agency may develop
120 procedures involving the use of telephone, fax, the Internet, or
121 other electronic media to receive and process a request from a
122 consumer to temporarily lift a freeze on a credit report pursuant
123 to subsection (4) in an expedited manner.

124 (7) A consumer credit reporting agency shall remove or
125 temporarily lift a freeze placed on a consumer's credit report
126 only in the following cases:

(a) Upon consumer request, pursuant to subsection (4) or (10); or

(b) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this paragraph, the consumer credit reporting agency shall notify the consumer in writing before removing the freeze on the consumer's credit report.

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

(9) If a consumer requests a security freeze, the consumer credit reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while the freeze is in place.

(10) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A consumer credit reporting agency shall remove a security freeze within three (3) business days of receiving a request for removal from the consumer, who provides both of the following:

(a) Proper identification; and

(b) The unique personal identification number or password provided by the credit reporting agency pursuant to subsection (3).

(11) A consumer credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(12) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

160 (a) A person or entity, or a subsidiary, affiliate, or
161 agent of that person or entity, or an assignee of a financial
162 obligation owing by the consumer to that person or entity, or a
163 prospective assignee of a financial obligation owing by the
164 consumer to that person or entity in conjunction with the proposed
165 purchase of the financial obligation, with which the consumer has
166 or had before assignment an account or contract, including a
167 demand deposit account, or to whom the consumer issued a
168 negotiable instrument, for the purposes of reviewing the account
169 or collecting the financial obligation owing for the account,
170 contract, or negotiable instrument. For purposes of this
171 paragraph, "reviewing the account" includes activities related to
172 account maintenance, monitoring, credit line increases, and
173 account upgrades and enhancements.

174 (b) A subsidiary, affiliate, agent, assignee, or
175 prospective assignee of a person to whom access has been granted
176 under subsection (4) for purposes of facilitating the extension of
177 credit or other permissible use.

178 (c) Any state or local agency, law enforcement agency,
179 trial court, or private collection agency acting pursuant to a
180 court order, warrant, or subpoena.

181 (d) A child support agency acting pursuant to 43-19-31
182 et seq. or Title IV-D of the Social Security Act (42 USCS Section
183 651 et seq.).

184 (e) The Division of Medicaid or its agents or assigns
185 acting to investigate Medicaid fraud.

186 (f) The State Tax Commission or its agents or assigns
187 acting to investigate or collect delinquent taxes or unpaid court
188 orders or to fulfill any of its other statutory responsibilities.

189 (g) The use of credit information for the purposes of
190 prescreening as provided for by the federal Fair Credit Reporting
191 Act.

192 (h) Any person or entity administering a credit file
193 monitoring subscription service to which the consumer has
194 subscribed.

195 (i) Any person or entity for the purpose of providing a
196 consumer with a copy of his or her credit report upon the
197 consumer's request.

198 **SECTION 3.** This act shall take effect and be in force from
199 and after July 1, 2006.