

By: Representative Dedeaux

To: Banking and Financial Services

HOUSE BILL NO. 653

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) of this section.

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 in
18 the file of a consumer not later than five (5) business days after
19 the reporting agency receives a request from the consumer to place
20 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 under subsection (7) of this section or the

30 removal of a security freeze from the file under subsection (8) of
31 this section;

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

37 (iii) The written disclosure required under
38 subsection (3) of this section.

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

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

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

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

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

62 A security freeze must be requested in writing by certified mail.

63 The security freeze is designed to prevent a reporting agency
64 from releasing your consumer report without your consent.

65 However, you should be aware that using a security freeze to take
66 control over who is allowed access to the personal and financial
67 information in your file may delay, interfere with or prohibit the
68 timely approval of any later request or application you make
69 regarding a new loan, credit, mortgage, insurance, government
70 services or payments, rental housing, employment, investment,
71 license, cellular telephone, utilities, digital signature,
72 Internet credit card transaction or other services, including an
73 extension of credit at point of sale.

74 When you place a security freeze in your file, you will be
75 provided a personal identification number or password to use if
76 you choose to remove the security freeze from your file or to
77 authorize the temporary release of your consumer report for a
78 specific person or period after the security freeze is in place.
79 To provide that authorization, you must contact the reporting
80 agency and provide all the following:

81 (a) Sufficient identification to verify your identity;

82 (b) Your personal identification number or password
83 provided by the reporting agency; and

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

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

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

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

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

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

105 1. Not to exceed Ten Dollars (\$10.00), to remove
106 the security freeze from his file under subsection (8) of this
107 section.

108 2. Not to exceed Ten Dollars (\$10.00), to
109 temporarily release his consumer report for a specific period
110 under subsection (7) of this section.

111 3. Not to exceed Ten Dollars (\$10.00), to
112 temporarily release his consumer report to a specific person under
113 subsection (7) of this section.

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

124 (c) On January 1 of each year, a reporting agency may
125 increase the fees set forth in paragraph (a) of this subsection
126 based proportionally on changes to the Consumer Price Index of All
127 Urban Consumers, as determined by the United States Department of

128 Labor, with fractional changes rounded to the nearest Twenty-five
129 Cents (25¢).

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

133 (i) The name of the consumer;

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

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

136 or

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

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

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

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

156 (b) If, in connection with an application for credit or
157 any other use, a third party requests access to a consumer report
158 on which a security freeze is in effect and the consumer does not
159 allow his consumer report to be accessed for that specific third

160 party or period of time, the third party may treat the application
161 as incomplete.

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

168 (i) Sufficient identification to establish the
169 identity of the consumer;

170 (ii) The personal identification number or
171 password provided by the reporting agency under subsection
172 (2)(c)(i) of this section; and

173 (iii) Information regarding the specific person or
174 the specific period for which the consumer report must be
175 temporarily released.

176 (b) A reporting agency that receives a request from a
177 consumer under paragraph (a) of this subsection shall, not later
178 than three (3) business days after receiving the request,
179 temporarily release the consumer report to the specific person or
180 for the specific period requested by the consumer.

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

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

193 (i) Sufficient identification to establish the
194 identity of the consumer; and

195 (ii) The personal identification number or
196 password provided by the reporting agency under subsection
197 (2)(c)(i) of this section.

198 (b) A reporting agency that receives a request from a
199 consumer under paragraph (a) of this subsection shall, not later
200 than three (3) business days after receiving the request:

201 (i) Remove the security freeze from the file of
202 the consumer; and

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

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

212 (9) (a) A reporting agency may remove a security freeze
213 from the file of a consumer if the reporting agency has a
214 reasonable belief that:

215 (i) The security freeze was placed in the file of
216 the consumer because of a material misrepresentation of fact by
217 the consumer; or

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

220 1. Committing fraud;

221 2. Committing any other act prohibited by
222 law; or

223 3. Aiding and abetting any act prohibited by
224 law.

225 (b) If a reporting agency intends to remove a security
226 freeze from the file of a consumer under paragraph (a) of this
227 subsection, the reporting agency shall send written notice to the
228 consumer before removing the security freeze.

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

232 (a) A person with whom the consumer has an existing
233 business relationship, or the subsidiary, affiliate or agent of
234 that person, for any purpose relating to that business
235 relationship;

236 (b) A licensed collection agency to which an account of
237 the consumer has been assigned for the purposes of collection;

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

243 (d) A person seeking to use information in the file of
244 the consumer for the purposes of prescreening under the Fair
245 Credit Reporting Act, 15 USCS Sections 1681 et seq.;

246 (e) A subsidiary, affiliate, agent, assignee or
247 prospective assignee of a person to whom access has been granted
248 under subsection (7) of this section for the purposes of
249 facilitating the extension of credit;

250 (f) A person seeking to provide the consumer with a
251 copy of the consumer report or the credit score of the consumer
252 upon the request of the consumer;

253 (g) A person administering a credit file monitoring
254 subscription service to which the consumer has subscribed;

255 (h) A person requesting the consumer report under a
256 court order, warrant or subpoena;

257 (i) A federal, state or local governmental entity,
258 agency or instrumentality that is acting within the scope of its
259 authority, including, without limitation, an agency that is
260 seeking to collect child support payments under Part D of Title IV
261 of the Social Security Act, 42 USCS Section 651 et seq.;

262 (j) A person holding a license issued by the
263 Mississippi Gaming Commission, or the subsidiary, affiliate,
264 agent, assignee or prospective assignee of that person, for
265 purposes relating to any activities conducted under the license;
266 or

267 (k) An employer, or the subsidiary, affiliate, agent,
268 assignee or prospective assignee of that employer, for purposes
269 of:

270 (i) Preemployment screenings relating to the
271 consumer; or

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

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

276 (a) A check services or fraud prevention services
277 company that issues reports on incidents of fraud or
278 authorizations for the purpose of approving or processing
279 negotiable instruments, electronic funds transfers or similar
280 methods of payments;

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

288 (c) A reporting agency that acts only as a reseller of
289 credit information by assembling and merging information contained

290 in the database of another reporting agency or in the databases of
291 multiple reporting agencies and that does not maintain a permanent
292 database of consumer credit information from which new consumer
293 reports are produced. Such a reporting agency shall honor any
294 security freeze placed on a consumer report by another reporting
295 agency.

296 **SECTION 2.** This act shall take effect and be in force from
297 and after July 1, 2007.