

SENATE BILL No. 1325

June 21, 2006, Introduced by Senator PATTERSON and referred to the Committee on Banking and Financial Institutions.

A bill to require certain credit reporting agencies to place security alerts and security freezes on certain consumer credit information; to authorize and limit fees; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "credit security act".

3 Sec. 2. As used in this act:

4 (a) "Clear and proper identification" means information
5 generally deemed sufficient to identify an individual.

6 (b) "Consumer" means an individual who resides in this state.

7 (c) "Consumer file" means any file or record maintained by a
8 credit reporting agency about a consumer.

1 (d) "Credit report" means any written, oral, or other
2 communication of any credit information by a credit reporting
3 agency that operates or maintains a database of consumer credit
4 information bearing on a consumer's creditworthiness, credit
5 standing, or credit capacity.

6 (e) "Credit reporting agency" means any person who, for
7 monetary fees or dues or on a cooperative nonprofit basis,
8 regularly engages in whole or in part in the practice of assembling
9 or evaluating consumer credit information or other information on
10 consumers for the purpose of furnishing credit reports to third
11 parties and who uses any means or facility of interstate commerce
12 for the purpose of preparing or furnishing credit reports. The term
13 does not include a check acceptance service that provides check
14 approval and guarantee services to merchants.

15 (f) "Security alert" means a notice that is placed on a
16 consumer file at the request of the consumer, is sent to a
17 recipient of a credit report involving that consumer file, and
18 states that the consumer's identity may have been used without the
19 consumer's consent to fraudulently obtain goods or services in the
20 consumer's name.

21 (g) "Security freeze" means a notice placed on a consumer file
22 at the request of the consumer and that prohibits a credit
23 reporting agency from releasing the consumer's credit report or
24 credit score without the express authorization of the consumer
25 except in compliance with this act.

26 Sec. 3. (1) A consumer may place a security freeze on his or
27 her consumer file by making a written request to a credit reporting

1 agency that includes clear and proper identification of the
2 consumer. A credit reporting agency shall place a security freeze
3 on a consumer's consumer file within 10 business days after
4 receiving a written request for the security freeze from the
5 consumer under this subsection.

6 (2) If a security freeze is in effect, a credit reporting
7 agency shall not release information from a consumer file to a
8 third party without prior express authorization from the consumer.

9 (3) A credit reporting agency shall notify a person who
10 requests a credit report if a security freeze is in effect for the
11 consumer file involved in that credit report.

12 Sec. 4. (1) Within 10 business days after a credit reporting
13 agency receives a request for a security freeze under section 5,
14 the credit reporting agency shall provide the consumer with a
15 unique personal identification number or password that the consumer
16 may use to provide authorization for access to his or her consumer
17 file for a specific period of time. In addition, the credit
18 reporting agency shall simultaneously provide to the consumer in
19 writing the process for placing, removing, and temporarily lifting
20 a security freeze and the process for allowing access to
21 information from the consumer file while the security freeze is in
22 effect.

23 (2) A consumer may request in writing a replacement personal
24 identification number or password for purposes of subsection (1).
25 The request must comply with the requirements for requesting a
26 security freeze under section 3. Within 7 business days after a
27 credit reporting agency receives a request for a replacement

1 personal identification number or password, the credit reporting
2 agency shall provide the consumer with a new, unique personal
3 identification number or password to be used by the consumer
4 instead of the number or password that was provided under
5 subsection (1).

6 Sec. 5. If a security freeze is in effect, a consumer
7 reporting agency shall not change a consumer's name, address, date
8 of birth, or social security number in a consumer file without
9 sending a written confirmation of the change to the consumer within
10 30 days after the posting of the change to the consumer file. If
11 the change is an address change, the consumer reporting agency
12 shall send written confirmation to both the new address and the
13 former address. Written confirmation is not required for a
14 technical modification of information in a consumer file, including
15 name and street abbreviations, complete spellings, or transposition
16 of numbers or letters.

17 Sec. 6. (1) A credit reporting agency shall remove or
18 temporarily lift a security freeze placed on a consumer file only
19 if 1 of the following applies:

20 (a) The consumer makes a request under this section and pays
21 any applicable fees under section 8.

22 (b) The consumer file is frozen due to a material
23 misrepresentation of fact by the consumer. If a credit reporting
24 agency intends to remove a security freeze on a consumer file under
25 this subdivision, the credit reporting agency shall notify the
26 consumer in writing before removing the security freeze.

27 (2) If a consumer wishes to allow access to his or her

1 consumer file for a specific period of time while a security freeze
2 is in place, he or she shall contact the credit reporting agency
3 and request that the credit reporting agency temporarily lift the
4 security freeze and provide all of the following to the credit
5 reporting agency:

6 (a) Clear and proper identification.

7 (b) The unique personal identification number or password
8 provided by the credit reporting agency under section 4.

9 (c) The specific time period that the consumer requests that
10 the credit reporting agency allow users access to his or her
11 consumer file.

12 (3) A credit reporting agency that receives a request from a
13 consumer to temporarily lift a security freeze on his or her
14 consumer file under subsection (2) shall comply with the request
15 within 3 business days after receiving the request. A credit
16 reporting agency may develop procedures involving the use of
17 telephone, facsimile, the internet, or other electronic media to
18 receive and process a request from a consumer to temporarily lift a
19 security freeze on a consumer file in an expedited manner.

20 (4) A security freeze shall remain in place until the consumer
21 requests that the credit reporting agency remove the security
22 freeze. A credit reporting agency shall remove a security freeze
23 within 3 business days after receiving a request for removal from
24 the consumer and the all of the following information from the
25 consumer:

26 (a) Clear and proper identification.

27 (b) The unique personal identification number or password

1 provided by the credit reporting agency under section 4.

2 Sec. 7. A security freeze does not apply to a credit report
3 provided to any of the following:

4 (a) To a law enforcement agency, court, or other federal,
5 state, or local governmental entity or an agent or assignee of that
6 agency.

7 (b) If provided for the sole purpose of assisting in the
8 collection of an existing debt of the consumer who is the subject
9 of the credit report requested, to a private collection agency.

10 (c) If provided for the purpose of reviewing an account or
11 collecting a financial obligation owed for an account, contract, or
12 negotiable instrument, to a person; to a subsidiary, affiliate, or
13 agent of that person; or to an assignee of a financial obligation a
14 consumer owes that person, or a prospective assignee of a financial
15 obligation a consumer owes that person in conjunction with a
16 proposed purchase of that financial obligation, if the consumer has
17 or had before the assignment an account or contract, including a
18 demand deposit account, with that person or had issued a negotiable
19 instrument to that person. As used in this subdivision, "reviewing
20 the account" includes activities related to account maintenance,
21 monitoring, credit line increases, and account upgrades and
22 enhancements.

23 (d) If provided to facilitate an extension of credit, to a
24 subsidiary, affiliate, agent, assignee, or prospective assignee of
25 a person given access to a credit report by a consumer under
26 section 6(2).

27 (e) To a person for the purpose of prescreening under the fair

1 credit reporting act, 15 USC 1681 to 1681v.

2 (f) To a credit reporting agency for the purpose of providing
3 a consumer with a copy of his or her own credit report at his or
4 her request.

5 (g) To a child support enforcement agency.

6 (h) To a person administering a credit report monitoring
7 subscription service to which the consumer has subscribed.

8 (i) To a check services or fraud prevention services company
9 that issues reports on incidents of fraud or authorizations for the
10 purpose of approving or processing negotiable instruments,
11 electronic funds transfers, or similar methods of payment.

12 (j) To a deposit account information service company that
13 issues reports regarding account closures due to fraud, substantial
14 overdrafts, automatic teller machine abuse, or similar negative
15 information regarding a consumer to inquiring banks or other
16 financial institutions for use only in reviewing a consumer request
17 for a deposit account at the inquiring bank or financial
18 institution.

19 Sec. 8. (1) A credit reporting agency may impose a reasonable
20 fee on a consumer for initially placing a security freeze on a
21 consumer file. The amount of the fee may not exceed \$10.00.

22 (2) A credit reporting agency may impose a reasonable fee on a
23 consumer to temporarily lift a security freeze on a consumer file.
24 The amount of the fee may not exceed \$8.00 per request.

25 (3) A credit reporting agency may not charge a consumer a fee
26 for revoking a security freeze.

27 Sec. 9. A consumer damaged by an intentional or negligent

1 violation of this act may bring an action for and is entitled to
2 recover his or her actual damages, plus reasonable attorney fees
3 and court costs.