

SENATE BILL No. 66

January 27, 2009, Introduced by Senators JACOBS and SWITALSKI and referred to the Committee on Economic Development and Regulatory Reform.

A bill to require certain consumer reporting agencies to place security freezes on certain consumer 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 "consumer security act".

3 Sec. 3. 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 all of the information on a consumer
8 recorded and retained by a consumer reporting agency regardless of
9 how the information is stored.

10 (d) "Consumer report" means any written, oral, or other

1 communication of any information by a consumer reporting agency
2 bearing on a consumer's creditworthiness, credit standing, credit
3 capacity, character, general reputation, personal characteristics,
4 or mode of living that is issued or expected to be used or
5 collected in whole or in part for the purpose of serving as a
6 factor in establishing the consumer's eligibility for any of the
7 following:

8 (i) Credit or insurance to be used primarily for personal,
9 family, or household purposes.

10 (ii) Employment purposes.

11 (iii) Any other purpose authorized under section 604 of the fair
12 credit reporting act, 15 USC 1681b.

13 (e) "Consumer reporting agency" means any person who, for
14 monetary fees or dues or on a cooperative nonprofit basis,
15 regularly engages in whole or in part in the practice of assembling
16 or evaluating consumer credit information or other information on
17 consumers for the purpose of furnishing consumer reports to third
18 parties and who uses any means or facility of interstate commerce
19 for the purpose of preparing or furnishing consumer reports.

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

26 (g) "Written request" means either of the following:

27 (i) A request in writing sent by certified mail, overnight

1 mail, or ordinary mail to a consumer reporting agency.

2 (ii) A direct request sent to a consumer reporting agency
3 through a secure electronic connection, if the consumer reporting
4 agency provides a secure electronic connection.

5 Sec. 5. (1) A consumer may place a security freeze on his or
6 her consumer file by making a written request to a consumer
7 reporting agency that includes clear and proper identification of
8 the consumer.

9 (2) A consumer reporting agency shall place a security freeze
10 on a consumer's consumer file within 5 business days after
11 receiving a written request for the security freeze from the
12 consumer under subsection (1).

13 (3) If a security freeze is in place, a consumer reporting
14 agency shall not release information from a consumer file to a
15 third party without prior express authorization from the consumer.
16 This subsection does not prevent a consumer reporting agency from
17 advising a third party that a security freeze is in effect with
18 respect to the consumer's consumer file.

19 Sec. 7. (1) Within 5 business days after a consumer reporting
20 agency places a security freeze on a consumer's consumer file under
21 section 5, the consumer reporting agency shall send a written
22 confirmation of the security freeze to the consumer that includes a
23 unique personal identification number or password that the consumer
24 may use to provide authorization for the release of his or her
25 consumer report, consumer file, or credit information to a specific
26 person or for a specific period of time. In addition, the consumer
27 reporting agency shall simultaneously provide to the consumer in

1 writing the process for placing, removing, and temporarily lifting
2 a security freeze and the process for allowing access to
3 information from the consumer file while the security freeze is in
4 effect.

5 (2) A consumer may request in writing a replacement personal
6 identification number or password for purposes of subsection (1).
7 The request must comply with the requirements for requesting a
8 security freeze under section 5. Within 5 business days after a
9 consumer reporting agency receives a request for a replacement
10 personal identification number or password, the consumer reporting
11 agency shall provide the consumer with a new, unique personal
12 identification number or password to be used by the consumer
13 instead of the number or password that was provided under
14 subsection (1).

15 Sec. 9. A consumer reporting agency shall notify a person who
16 requests a consumer report if a security freeze is in effect for
17 the consumer file involved in that consumer report.

18 Sec. 11. (1) If a consumer wishes to allow access to his or
19 her consumer file to a specific person or for a specific period of
20 time while a security freeze is in place, he or she shall contact
21 the consumer reporting agency, request that the consumer reporting
22 agency allow access to his or her consumer file, and provide all of
23 the following to the consumer reporting agency:

24 (a) Clear and proper identification.

25 (b) The unique personal identification number or password
26 provided by the consumer reporting agency under section 5.

27 (c) Information sufficient to identify the person who is to

1 receive information from the consumer file or a consumer report or
2 the specific time period that the consumer reporting agency should
3 allow users access to the consumer's consumer file.

4 (2) A consumer reporting agency that receives a request from a
5 consumer to temporarily lift a security freeze on his or her
6 consumer file under subsection (1) shall comply with the request
7 within 3 business days after receiving the request. A consumer
8 reporting agency may develop procedures involving the use of
9 telephone, facsimile, the internet, or other electronic media to
10 receive and process a request from a consumer to temporarily lift a
11 security freeze on a consumer file in an expedited manner.

12 (3) A security freeze shall remain in place until the consumer
13 requests that the consumer reporting agency remove the security
14 freeze. A consumer reporting agency shall remove a security freeze
15 within 3 business days after receiving a request for removal from
16 the consumer and all of the following information from the
17 consumer:

18 (a) Clear and proper identification.

19 (b) The unique personal identification number or password
20 provided by the consumer reporting agency under section 7.

21 Sec. 13. (1) A consumer reporting agency may impose a
22 reasonable fee on a consumer for initially placing a security
23 freeze on a consumer file. The amount of the fee may not exceed
24 \$10.00.

25 (2) A consumer reporting agency may impose a reasonable fee on
26 a consumer for a request to allow limited access to a consumer file
27 under section 11(1). The amount of the fee may not exceed \$8.00 per

1 request.

2 (3) A consumer reporting agency may not charge a consumer a
3 fee for removing a security freeze under section 11(3).

4 Sec. 15. A consumer damaged by an intentional or negligent
5 violation of this act by a consumer reporting agency may bring an
6 action for that violation and is entitled to recover his or her
7 actual damages, plus reasonable attorney fees and court costs.