

SUBSTITUTE FOR

SENATE BILL NO. 174

A bill to require certain consumer reporting agencies to place security freezes for consumers under certain circumstances; to provide for the removal of those security freezes; to authorize and limit fees; to prescribe the powers and duties of certain state agencies and officials; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 ARTICLE 1

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

4 Sec. 2. As used in this act:

5 (a) "Consumer" means an individual who resides in this state.

(b) "Consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis,

1 regularly engages in whole or in part in the practice of assembling
2 or evaluating consumer credit information or other information on
3 consumers for the purpose of furnishing credit reports to third
4 parties and that uses any means or facility of interstate commerce
5 for the purpose of preparing or furnishing credit reports.

6 (c) "Credit report" means any written, oral, or other
7 communication of any information by a consumer reporting agency
8 that is related to a consumer's creditworthiness, credit standing,
9 or credit capacity, and is issued or expected to be used or
10 collected in whole or in part for the purpose of serving as a
11 factor in establishing the consumer's eligibility for credit.

12 (d) "File" means all of the information about a consumer that
13 is recorded and retained by a consumer reporting agency regardless
14 of how the information is stored.

15 (e) "Protected consumer" means either of the following:

16 (i) An individual who is under 16 years of age at the time a
17 request for the placement of a security freeze is made.

18 (ii) An incapacitated person or a protected person for whom a
19 guardian or conservator has been appointed has been appointed under
20 article V of the estates and protected individuals code, 1998 PA
21 386, MCL 700.5101 to 700.5520.

22 (f) "Record" means a compilation of information that meets all
23 of the following:

24 (i) Identifies a protected consumer.

25 (ii) Is created by a consumer reporting agency solely for the
26 purpose of complying with article 3.

27 (iii) May not be created or used to consider the protected

1 consumer's creditworthiness, credit standing, credit capacity,
2 character, general reputation, personal characteristics, or mode of
3 living for any purpose authorized under section 604 of the fair
4 credit reporting act, 15 USC 1681b.

5 (g) "Representative" means an individual who provides to a
6 consumer reporting agency sufficient proof of authority to act on
7 behalf of a protected consumer.

8 (h) "Security freeze" means a restriction placed on a
9 consumer's credit report at the request of the consumer that
10 prohibits a consumer reporting agency from releasing the consumer's
11 credit report or any information derived from the consumer's credit
12 report without the express authorization of or on behalf of the
13 consumer.

14 (i) "Security freeze for a protected consumer" means any of
15 the following:

16 (i) If a consumer reporting agency does not have a file
17 pertaining to a protected consumer, a security freeze that meets
18 both of the following:

19 (A) Is placed on the protected consumer's record under this
20 act.

21 (B) Prohibits the consumer reporting agency from releasing the
22 protected consumer's record except as provided in this act.

23 (ii) If a consumer reporting agency has a file pertaining to
24 the protected consumer, a security freeze that meets both of the
25 following:

26 (A) Is placed on the protected consumer's credit report under
27 this act.

1 (B) Prohibits the consumer reporting agency from releasing the
2 protected consumer's credit report or any information derived from
3 the protected consumer's credit report except as provided in this
4 act.

5 (j) "Sufficient proof of authority" means documentation that
6 shows that a representative has authority to act on behalf of a
7 protected consumer, including, but not limited to, any of the
8 following:

9 (i) An order issued by a court of law.

10 (ii) A lawfully executed and valid power of attorney.

11 (iii) A written, notarized statement signed by a representative
12 that expressly describes the authority of the representative to act
13 on behalf of a protected consumer.

14 (k) "Sufficient proof of identification" means information or
15 documentation that identifies a consumer, a protected consumer, or
16 a representative of a protected consumer, including, but not
17 limited to, any of the following:

18 (i) A social security number or a copy of a social security
19 card issued by the social security administration.

20 (ii) A certified or official copy of a birth certificate issued
21 by the entity authorized to issue the birth certificate.

22 (iii) A copy of an operator's license or chauffeur's license
23 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
24 257.923, an official state personal identification card issued
25 under 1972 PA 222, MCL 28.291 to 28.300, or any other government-
26 issued identification.

27 Sec. 3. Article 2 does not apply to any of the following

1 entities or uses:

2 (a) A person, or a subsidiary, affiliate, agent, or assignee
3 of a person, with which the consumer has, or before assignment had,
4 an account, contract, or debtor-creditor relationship, for the
5 purpose of account review or collecting the financial obligation
6 owing for the account, contract, or debt.

7 (b) A person that was given access to a consumer's credit
8 report for the purpose of facilitating an extension of credit to
9 the consumer or another permissible use.

10 (c) A person that is acting under a court order, warrant, or
11 subpoena.

12 (d) A unit of state or local government that administers a
13 program for establishing and enforcing child support obligations.

14 (e) The department of human services in connection with a
15 fraud investigation conducted by that department.

16 (f) Any state or local taxing authority in connection with any
17 of the following:

18 (i) An investigation conducted by that taxing authority.

19 (ii) The collection of delinquent taxes or unpaid court orders
20 by the taxing authority.

21 (iii) The performance of any other duty provided for by law.

22 (g) A person that furnishes a credit report, or requests that
23 a credit report be furnished, that relates to a consumer in
24 connection with a credit or insurance transaction not initiated by
25 a consumer, if the requirements of 15 USC 1681b(c) are met

26 (h) A person that administers a credit file monitoring
27 subscription service to which a consumer or protected consumer has

1 subscribed.

2 (i) A person that provides a consumer or the consumer's
3 representative with a copy of the consumer's credit report on
4 request of the consumer or the representative.

5 (j) To the extent not prohibited by another law of this state,
6 a person engaged solely in setting or adjusting an insurance rate,
7 adjusting an insurance claim, or underwriting an insurance risk.

8 (k) A check services or fraud prevention services company that
9 issues any of the following:

10 (i) Reports on incidents of fraud.

11 (ii) Authorizations for the purpose of approving or processing
12 negotiable instruments, electronic funds transfers, or similar
13 payment methods.

14 (l) A deposit account information service company that issues
15 reports regarding account closures due to fraud, substantial
16 overdrafts, or automated teller machine abuse or provides similar
17 information regarding a consumer to inquiring banks or other
18 financial institutions for use only in reviewing a consumer request
19 for a deposit account at the inquiring bank or financial
20 institution.

21 (m) A consumer reporting agency database or file that consists
22 entirely of consumer information concerning, and used solely for, 1
23 or more of the following:

24 (i) Criminal record information.

25 (ii) Personal loss history information.

26 (iii) Fraud prevention or detection.

27 (iv) Employment screening.

1 (v) Tenant screening.

2 (n) A consumer reporting agency that meets both of the
3 following:

4 (i) It is only engaged in reselling resell credit information
5 by assembling and merging information contained in a database of 1
6 or more consumer reporting agencies.

7 (ii) It does not maintain a permanent database of credit
8 information it obtains for purposes of subparagraph (i).

9 Sec. 4. Article 3 does not apply to any of the following
10 entities or uses:

11 (a) A person that is acting under a court order, warrant, or
12 subpoena.

13 (b) A person that administers a credit file monitoring
14 subscription service to which a consumer or protected consumer has
15 subscribed.

16 (c) A person that provides a consumer or the consumer's
17 representative with a copy of the consumer's credit report on
18 request of the consumer or the representative.

19 (d) A check services or fraud prevention services company that
20 issues any of the following:

21 (i) Reports on incidents of fraud.

22 (ii) Authorizations for the purpose of approving or processing
23 negotiable instruments, electronic funds transfers, or similar
24 payment methods.

25 (e) A deposit account information service company that issues
26 reports regarding account closures due to fraud, substantial
27 overdrafts, or automated teller machine abuse or provides similar

1 information regarding a consumer to inquiring banks or other
2 financial institutions for use only in reviewing a consumer request
3 for a deposit account at the inquiring bank or financial
4 institution.

5 (f) A consumer reporting agency database or file that consists
6 entirely of consumer information concerning, and used solely for, 1
7 or more of the following:

8 (i) Criminal record information.

9 (ii) Personal loss history information.

10 (iii) Fraud prevention or detection.

11 (iv) Employment screening.

12 (v) Tenant screening.

13 (g) A consumer reporting agency that meets both of the
14 following:

15 (i) It is only engaged in reselling resell credit information
16 by assembling and merging information contained in a database of 1
17 or more consumer reporting agencies.

18 (ii) It does not maintain a permanent database of credit
19 information it obtains for purposes of subparagraph (i).

20 ARTICLE 2

21 Sec. 11. (1) A consumer reporting agency shall place a
22 security freeze on a consumer's credit report if all of the
23 following are met:

24 (a) The consumer reporting agency receives a request from the
25 consumer for the placement of the security freeze under this act.

26 (b) The consumer does all of the following:

27 (i) Submits the request described in subdivision (a) to the

1 consumer reporting agency at the address or other point of contact
2 and in the manner specified by the consumer reporting agency.

3 (ii) Provides to the consumer reporting agency sufficient proof
4 of identification of the consumer.

5 (iii) Pays to the consumer reporting agency the appropriate fee
6 under section 31.

7 (2) Within 5 business days after receiving a request that
8 meets the requirements of subsection (1), a consumer reporting
9 agency shall place a security freeze for the consumer.

10 Sec. 12. Within 5 business days after placing a security
11 freeze on a consumer's credit report under section 11, the consumer
12 reporting agency shall do all of the following:

13 (a) Send a written confirmation of the security freeze to the
14 consumer.

15 (b) Provide the consumer with a unique personal identification
16 number or password to be used by the consumer when authorizing the
17 release of the consumer's credit report to a specific person or for
18 a specific period of time.

19 (c) Provide the consumer with a written statement of the
20 procedures for requesting the consumer reporting agency to remove
21 or temporarily lift a security freeze.

22 Sec. 13. Except as provided in section 14, if a security
23 freeze is in place, a consumer reporting agency may not release a
24 consumer's credit report or any information derived from a
25 consumer's credit report without the express prior authorization of
26 the consumer.

27 Sec. 14. (1) A consumer who does all of the following may

1 temporarily lift a security freeze to allow access to the
2 consumer's credit report by a specific person or for a specific
3 period of time while the security freeze is in place:

4 (a) Contacts the consumer reporting agency at the address or
5 other point of contact and in the manner specified by the consumer
6 reporting agency for making a request under subdivision (b).

7 (b) Requests that the consumer reporting agency temporarily
8 lift the security freeze.

9 (c) Provides to the consumer reporting agency sufficient proof
10 of identification of the consumer.

11 (d) Includes with the request under subdivision (b) the unique
12 personal identification number or password provided to the consumer
13 under section 12(b).

14 (e) Provides the proper information regarding the person that
15 is to receive the credit report or the time period during which the
16 credit report is to be available to users of the credit report.

17 (f) Pays the appropriate fee under section 31.

18 (2) Except as provided in subsection (3), a consumer reporting
19 agency that receives a request to temporarily lift a security
20 freeze under subsection (1) shall comply with the request within 3
21 business days after receiving the request.

22 (3) If a consumer reporting agency receives a request to
23 temporarily lift a security freeze under subsection (1) by
24 telephone, by electronic mail, or by secure connection on the
25 website of the consumer reporting agency, the consumer reporting
26 agency shall comply with the request within 15 minutes after
27 receiving the request. However, a consumer reporting agency is not

1 required to temporarily lift a security freeze within 15 minutes if
2 a delay in complying with the request is caused by any of the
3 following:

4 (a) An act of God, including, but not limited to, a fire,
5 earthquake, hurricane, storm, or similar natural disaster or
6 phenomena.

7 (b) An unauthorized or illegal act by a third party,
8 including, but not limited to, an act of terrorism, sabotage, riot,
9 or vandalism, a labor strike or other labor dispute that disrupts
10 the consumer reporting agency's operations, or a similar
11 occurrence.

12 (c) An interruption of the consumer reporting agency's
13 operations, including, but not limited to, an electrical failure,
14 an unanticipated delay in equipment or replacement part delivery, a
15 computer hardware or software failure that inhibits response time,
16 or a similar disruption.

17 (d) Governmental action, including, but not limited to, an
18 emergency order or regulation, judicial or law enforcement action,
19 or a similar directive.

20 (e) Regularly scheduled maintenance of, or updates to, the
21 consumer reporting agency's systems that occurs outside of normal
22 business hours.

23 (f) Commercially reasonable maintenance of, or repair to, the
24 consumer reporting agency's systems that is unexpected or
25 unscheduled.

26 Sec. 15. If, in connection with an application for credit or
27 for any other use, a person requests access to a consumer's credit

1 report while a security freeze is in place and the consumer does
2 not authorize access to the consumer's credit report, the person
3 may treat the application as incomplete.

4 Sec. 16. A security freeze on a consumer's credit report shall
5 remain in place until 1 of the following occurs:

6 (a) The freeze is temporarily lifted at the consumer's request
7 under section 14.

8 (b) The freeze is removed at the consumer's request under
9 section 17.

10 (c) The freeze is removed by the consumer reporting agency
11 because the freeze was placed based on a material misrepresentation
12 of fact by the consumer. However, if a consumer reporting agency
13 intends to remove a security freeze under this subdivision, the
14 consumer reporting agency must notify the consumer in writing of
15 its intent at least 5 business days before removing the security
16 freeze.

17 Sec. 17. (1) A consumer reporting agency shall remove a
18 security freeze on a consumer's credit report if the consumer does
19 all of the following:

20 (a) Contacts the consumer reporting agency at the address or
21 other point of contact and in the manner specified by the consumer
22 reporting agency for making a request to remove a security freeze.

23 (b) Requests the removal of the security freeze on his or her
24 credit report.

25 (c) Provides to the consumer reporting agency sufficient proof
26 of identification of the consumer.

27 (d) Includes with the request under subdivision (b) the unique

1 personal identification number or password provided to the consumer
2 under section 12(b).

3 (e) Pays the appropriate fee under section 31.

4 (2) A consumer reporting agency that receives a request for
5 removal of a security freeze under subsection (1) shall comply with
6 the request within 3 business days after receiving the request.

7 ARTICLE 3

8 Sec. 21. (1) A consumer reporting agency shall place a
9 security freeze on a protected consumer's credit report if all of
10 the following are met:

11 (a) The consumer reporting agency receives a request from the
12 representative of the protected consumer for the placement of the
13 security freeze.

14 (b) The protected consumer's representative does all of the
15 following:

16 (i) Submits the request to the consumer reporting agency at the
17 address or other point of contact and in the manner specified by
18 the consumer reporting agency.

19 (ii) Provides to the consumer reporting agency sufficient proof
20 of identification for the protected consumer and the
21 representative.

22 (iii) Provides to the consumer reporting agency his or her
23 sufficient proof of authority.

24 (iv) Pays to the consumer reporting agency the appropriate fee
25 under section 31.

26 (2) If a consumer reporting agency does not have a file
27 pertaining to a protected consumer when the consumer reporting

1 agency receives a request under subsection (1), the consumer
2 reporting agency shall create a record for the protected consumer.

3 (3) Within 30 days after receiving a request that meets the
4 requirements of subsection (1), a consumer reporting agency shall
5 place a security freeze for the protected consumer.

6 Sec. 22. (1) If a security freeze is in place, a consumer
7 reporting agency may not release a protected consumer's credit
8 report, any information derived from the protected consumer's
9 credit report, or any record created for the protected consumer.

10 (2) A security freeze for a protected consumer shall remain in
11 effect until 1 of the following is met:

12 (a) The protected consumer or the protected consumer's
13 representative requests the consumer reporting agency to remove the
14 security freeze under section 23.

15 (b) The security freeze is removed under section 24.

16 Sec. 23. A consumer reporting agency shall remove a security
17 freeze for a protected consumer placed under section 21 within 30
18 days after the protected consumer or the protected consumer's
19 representative does all of the following:

20 (a) Submits a request for the removal of the security freeze
21 to the consumer reporting agency at the address or other point of
22 contact and in the manner specified by the consumer reporting
23 agency.

24 (b) Provides 1 of the following to the consumer reporting
25 agency:

26 (i) If the request for removal is submitted by the protected
27 consumer, all of the following:

1 (A) Proof that the sufficient proof of authority for the
2 protected consumer's representative to act on behalf of the
3 protected consumer is no longer valid.

4 (B) Sufficient proof of identification of the protected
5 consumer.

6 (ii) If the request for removal is submitted by the
7 representative of a protected consumer, all of the following:

8 (A) Sufficient proof of identification of the protected
9 consumer and the representative.

10 (B) Sufficient proof of authority to act on behalf of the
11 protected consumer.

12 (c) Pays the consumer reporting agency the appropriate fee
13 under section 31.

14 Sec. 24. Within 30 days after receiving a request that meets
15 the requirements of section 23, a consumer reporting agency shall
16 remove a security freeze for the protected consumer.

17 Sec. 25. A consumer reporting agency may remove a security
18 freeze for a protected consumer or delete a record of a protected
19 consumer if the security freeze was placed or the record was
20 created based on a material misrepresentation of fact by the
21 protected consumer or the protected consumer's representative.

22 ARTICLE 4

23 Sec. 31. (1) A consumer reporting agency may charge the
24 following fees:

25 (a) Subject to subsection (2), a fee that does not exceed
26 \$10.00 for the placement, temporary lifting, or removal of a
27 security freeze for a consumer under article 2.

1 (b) Subject to subsection (3), a fee that does not exceed
2 \$10.00 for the placement or removal of a security freeze for a
3 protected consumer under article 3, charged to a protected consumer
4 or his or her representative.

5 (2) A consumer reporting agency may not charge a fee
6 authorized under subsection (1)(a) to a consumer for the placement,
7 temporary lifting, or removal of a security freeze for a consumer
8 under article 2 if the consumer has filed a police report of
9 alleged identity theft against the consumer under section 4a, 33b,
10 or 64a of the William Van Regenmorter crime victim's rights act,
11 1985 PA 87, MCL 780.754a, 780.783b, and 780.814a, and provides a
12 copy of the report to the consumer reporting agency.

13 (3) A consumer reporting agency may not charge a fee
14 authorized under subsection (1)(b) if either of the following are
15 met:

16 (a) The protected consumer or his or her representative has
17 filed a police report of alleged identity theft against the
18 protected consumer under section 4a, 33b, or 64a of the William Van
19 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.754a,
20 780.783b, and 780.814a, and provides a copy of the report to the
21 consumer reporting agency.

22 (b) The request for the placement or removal of a security
23 freeze is for a protected consumer who is under the age of 16 years
24 at the time of the request and the consumer reporting agency has a
25 credit report pertaining to the protected consumer.

26 Sec. 32. The attorney general may apply to the circuit court
27 for Ingham county, or to the circuit court for the county in which

1 a violation of this act is alleged to have occurred or in which the
2 person that allegedly violated this act resides or is located, for
3 injunctive or other appropriate judicial relief or remedy. However,
4 this act does not create a private cause of action for a violation
5 of this act.

6 Enacting section 1. This act takes effect January 1, 2014.