

SENATE BILL No. 833

October 20, 2005, Introduced by Senator SWITALSKI 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 freeze act of 2005."

3 Sec. 2. As used in this act:

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

6 (b) "Consumer file" means a consumer's credit report and other
7 information shown in the records of a credit reporting agency.

8 (c) "Credit report" means any written, oral, or other
9 communication of any credit information by a credit reporting
10 agency that operates or maintains a database of consumer credit

1 information bearing on a consumer's creditworthiness, credit
2 standing, or credit capacity.

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

12 (e) "Security freeze" means a notice placed on a consumer file
13 at the request of the consumer and that prohibits a credit
14 reporting agency from releasing the consumer's credit report
15 without the express authorization of the consumer except in
16 compliance with this act.

17 Sec. 3. The following persons are not required to place a
18 security alert or a security freeze on a consumer file under this
19 act:

20 (a) A check services or fraud prevention services company that
21 issues reports on incidents of fraud or authorizations for the
22 purpose of approving or processing negotiable instruments,
23 electronic funds transfers, or similar methods of payments.

24 (b) A deposit account information service company that issues
25 reports regarding account closures due to fraud, substantial
26 overdrafts, automatic teller machine abuse, or similar negative
27 information regarding a consumer to inquiring financial

1 institutions for use only in reviewing a consumer request for a
2 deposit account at the inquiring financial institution.

3 (c) A reseller of credit information that assembles or merges
4 information contained in the database of another consumer reporting
5 agency or multiple consumer reporting agencies and does not
6 maintain a permanent database of credit information from which new
7 consumer reports are produced.

8 (d) Any database or file that consists solely of any
9 information adverse to the interests of the consumer, including,
10 but not limited to, criminal record information, that is used for
11 fraud prevention or detection, tenant screening, employment
12 screening, or any purpose permitted by section 604 of the fair
13 credit reporting act, 15 USC 1681b.

14 (e) A person that provides fraud prevention services that
15 include reports on incidents of fraud or reports used primarily in
16 the detection or prevention of fraud, but only with respect to
17 those services.

18 (f) A state or nationally chartered bank or a state or
19 federally chartered savings and loan association, savings bank, or
20 credit union.

21 Sec. 4. (1) A consumer may place a security freeze on his or
22 her consumer file by written request, sent by certified mail, that
23 includes clear and proper identification of the consumer, to a
24 credit reporting agency. A credit reporting agency shall place a
25 security freeze on a consumer's consumer file within 10 business
26 days after receiving a written request for the security freeze from
27 the consumer under this subsection.

1 (2) If a security freeze is in place, a credit reporting
2 agency shall not release information from a consumer file to a
3 third party without prior express authorization from the consumer.
4 This subsection does not prevent a credit reporting agency from
5 advising a third party that a security freeze is in effect with
6 respect to the consumer's consumer file.

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

18 (2) A consumer may request in writing a replacement personal
19 identification number or password for purposes of subsection (1).
20 The request must comply with the requirements for requesting a
21 security freeze under section 4. Within 7 business days after a
22 credit reporting agency receives a request for a replacement
23 personal identification number or password, the credit reporting
24 agency shall provide the consumer with a new, unique personal
25 identification number or password to be used by the consumer
26 instead of the number or password that was provided under
27 subsection (1).

1 Sec. 6. (1) A credit reporting agency shall notify a person
2 who requests a credit report if a security freeze is in effect for
3 the consumer file involved in that credit report.

4 (2) If a third party requests access to a consumer's credit
5 report while a security freeze is in effect, the request is in
6 connection with an application for credit or any other use, and the
7 consumer does not allow access to his or her credit report while
8 the security freeze is in effect, the third party shall treat the
9 application as incomplete.

10 (3) If a security freeze is in effect, a credit reporting
11 agency shall not change any of the following official information
12 in a consumer's credit report without sending a written
13 confirmation of the change to the consumer within 30 days after the
14 posting of the change to the consumer's file: name, date of birth,
15 social security number, or address. If the change is an address
16 change, the credit reporting agency shall send written confirmation
17 to both the new address and the former address. Written
18 confirmation is not required for a technical modification of a
19 consumer's official information, including name and street
20 abbreviations, complete spellings, or transposition of numbers or
21 letters.

22 Sec. 7. (1) A credit reporting agency shall remove or
23 temporarily lift a security freeze placed on a consumer file only
24 if 1 of the following applies:

25 (a) The consumer makes a request under this section.

26 (b) The consumer file is frozen due to a material
27 misrepresentation of fact by the consumer. If a credit reporting

1 agency intends to remove a security freeze on a consumer file under
2 this subdivision, the credit reporting agency shall notify the
3 consumer in writing before removing the security freeze.

4 (2) If a consumer wishes to allow access to his or her
5 consumer file for a specific period of time while a security freeze
6 is in place, he or she shall contact the credit reporting agency
7 and request that the credit reporting agency temporarily lift the
8 security freeze and provide all of the following to the credit
9 reporting agency:

10 (a) Clear and proper identification.

11 (b) The unique personal identification number or password
12 provided by the credit reporting agency under section 5.

13 (c) The specific time period that the consumer requests that
14 the credit reporting agency allow users access to his or her
15 consumer file.

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

24 (4) A security freeze shall remain in place until the consumer
25 requests that the credit reporting agency remove the security
26 freeze. A credit reporting agency shall remove a security freeze
27 within 3 business days after receiving a request for removal from

1 the consumer and all of the following information from the
2 consumer:

3 (a) Clear and proper identification.

4 (b) The unique personal identification number or password
5 provided by the credit reporting agency under section 5.

6 Sec. 8. A security freeze does not apply to a credit report
7 provided to any of the following:

8 (a) To a law enforcement agency, court, or other federal,
9 state, or local governmental entity or an agent or assignee of that
10 agency.

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

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

27 (d) If provided to facilitate an extension of credit, to a

1 subsidiary, affiliate, agent, assignee, or prospective assignee of
2 a person given access to a credit report by a consumer under
3 section 7(2).

4 (e) To a person for the purpose of prescreening under the fair
5 credit reporting act, 15 USC 1681 to 1681v.

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

9 (g) To a child support enforcement agency.

10 (h) To a credit reporting agency that acts only as a reseller
11 of credit information by assembling and merging information
12 contained in the database of another credit reporting agency or
13 multiple credit reporting agencies and does not maintain a
14 permanent database of credit information from which new credit
15 reports are produced. However, a credit reporting agency acting as
16 a reseller shall honor any security freeze placed on a credit
17 report by another credit reporting agency.

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

22 (j) To a deposit account information service company that
23 issues reports regarding account closures due to fraud, substantial
24 overdrafts, automatic teller machine abuse, or similar negative
25 information regarding a consumer to inquiring banks or other
26 financial institutions for use only in reviewing a consumer request
27 for a deposit account at the inquiring bank or financial

1 institution.

2 Sec. 9. (1) Subject to subsection (4), a credit reporting
3 agency may impose a reasonable fee on a consumer for initially
4 placing a security freeze on a consumer file. The amount of the fee
5 may not exceed \$10.00.

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

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

11 (4) A credit reporting agency may not charge any of the
12 following consumers a fee for placing a security freeze on a
13 consumer file:

14 (a) A consumer who is a victim of identity theft and who
15 provides the credit reporting agency upon request with a police
16 report that confirms that he or she has reported the identity
17 theft.

18 (b) A consumer who is 62 years old or older.

19 Sec. 10. A consumer damaged by an intentional or negligent
20 violation of this act may bring an action for and is entitled to
21 recover his or her actual damages, plus reasonable attorney fees
22 and court costs.