

SENATE BILL No. 340

March 6, 2007, Introduced by Senators BROWN, PAPPAGEORGE, GARCIA, GILBERT, ANDERSON, RICHARDVILLE, McMANUS, BIRKHOLZ and JANSEN and referred to the Committee on Banking and Financial Institutions.

A bill to require certain consumer reporting agencies to place 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 "consumer credit protection 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 report" means that term as defined in 15 USC
8 1681a(d) .

9 (d) "Consumer reporting agency" means that term as defined in

1 15 USC 1681a(f). The term does not include a check acceptance
2 service that provides check approval and guarantee services to
3 merchants.

4 (e) "Security freeze" means a notice placed on a consumer
5 report at the request of the consumer that prohibits a consumer
6 reporting agency from releasing the consumer's consumer report or
7 credit score related to extensions of credit without the express
8 authorization of the consumer except in compliance with this act.

9 Sec. 5. (1) A consumer may place a security freeze on his or
10 her consumer report by making a written request to a consumer
11 reporting agency, sent by certified mail to an address designated
12 by that consumer reporting agency to receive requests under this
13 subsection, that includes clear and proper identification of the
14 consumer. A consumer reporting agency shall place a security freeze
15 on a consumer's consumer report within 10 business days after
16 receiving a written request for the security freeze from the
17 consumer under this subsection.

18 (2) If a security freeze is in place, a consumer reporting
19 agency shall not release information from a consumer report to a
20 third party without prior express authorization from the consumer.
21 This subsection does not prevent a consumer reporting agency from
22 advising a third party that a security freeze is in effect with
23 respect to the consumer's consumer report.

24 Sec. 7. (1) Within 10 business days after a consumer reporting
25 agency receives a request for a security freeze under section 5,
26 the consumer reporting agency shall provide the consumer with a
27 unique personal identification number or password that the consumer

1 may use to provide authorization for access to his or her consumer
2 report for a specific period of time. In addition, the consumer
3 reporting agency shall simultaneously provide to the consumer in
4 writing the process for placing, removing, and temporarily lifting
5 a security freeze and the process for allowing access to
6 information from the consumer report while the security freeze is
7 in effect.

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

18 Sec. 9. If a security freeze is in effect, a consumer
19 reporting agency shall not change a consumer's name, address, date
20 of birth, or social security number in a consumer report without
21 sending a written confirmation of the change to the consumer within
22 30 days after the posting of the change to the consumer report. If
23 the change is an address change, the consumer reporting agency
24 shall send written confirmation to both the new address and the
25 former address. Written confirmation is not required for a
26 technical modification of information in a consumer report,
27 including name and street abbreviations, complete spellings, or

1 transposition of numbers or letters.

2 Sec. 11. (1) A consumer reporting agency shall remove or
3 temporarily lift a security freeze placed on a consumer report only
4 if 1 of the following applies:

5 (a) The consumer makes a request under this section and pays
6 any applicable fees under section 13 to the consumer reporting
7 agency at a point of contact designated by that consumer reporting
8 agency.

9 (b) The consumer report is frozen due to a material
10 misrepresentation of fact by the consumer. If a consumer reporting
11 agency intends to remove a security freeze on a consumer report
12 under this subdivision, the consumer reporting agency shall notify
13 the consumer in writing before removing the security freeze.

14 (2) If a consumer wishes to allow access to his or her
15 consumer report for a specific period of time while a security
16 freeze is in place, he or she shall contact the consumer reporting
17 agency and request that the consumer reporting agency temporarily
18 lift the security freeze and provide all of the following to the
19 consumer reporting agency:

20 (a) Clear and proper identification.

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

23 (c) The specific time period that the consumer requests that
24 the consumer reporting agency allow users access to his or her
25 consumer report.

26 (3) A consumer reporting agency that receives a request from a
27 consumer to temporarily lift a security freeze on his or her

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

7 (4) A security freeze shall remain in place until the consumer
8 requests that the consumer reporting agency remove the security
9 freeze. A consumer reporting agency shall remove a security freeze
10 within 3 business days after receiving a request for removal from
11 the consumer and the all of the following information from the
12 consumer:

13 (a) Clear and proper identification.

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

16 Sec. 13. (1) Subject to subsection (2), a consumer reporting
17 agency may impose a reasonable fee on a consumer for placing,
18 temporarily lifting, or removing a security freeze on a consumer
19 report. The amount of the fee may not exceed \$10.00 per request.

20 (2) A consumer reporting agency may not charge any of the
21 following consumers a fee for placing or removing a security freeze
22 on a consumer report:

23 (a) A consumer who was a victim of identity theft and who
24 provides the consumer reporting agency upon request with a police
25 report that confirms that the consumer was a victim of identity
26 theft.

27 (b) A consumer who is 65 years old or older.

1 Sec. 15. (1) A consumer may bring an action against a person
2 who negligently fails to comply with any requirement imposed under
3 this act with respect to the consumer to recover actual damages
4 sustained by the consumer as a result of the failure, plus
5 reasonable attorney fees and court costs.

6 (2) A consumer may bring an action against a person who
7 willfully fails to comply with any requirement imposed under this
8 act with respect to the consumer to recover actual damages
9 sustained by the consumer as a result of the failure or damages of
10 not less than \$100.00 and not more than \$1,000.00, whichever is
11 greater, plus reasonable attorney fees and court costs if the
12 consumer is successful in obtaining any award in the action.

13 (3) A consumer reporting agency may bring an action against a
14 person who obtains a consumer report or requests a security freeze,
15 the temporary lift of a freeze, or the removal of a freeze from the
16 consumer reporting agency under false pretenses or in an attempt to
17 violate federal or state law to recover actual damages sustained by
18 the consumer reporting agency or \$1,000.00, whichever is greater.

19 (4) If the court in an action described in this section finds
20 that an unsuccessful pleading, motion, or other paper filed in
21 connection with the action was filed in bad faith or for purposes
22 of harassment, the court shall award attorney fees to the
23 prevailing party in an amount the court finds reasonable in
24 relation to the work expended in responding to the pleading,
25 motion, or paper.

26 Sec. 17. The following entities are not required to place a
27 security freeze on a consumer report:

1 (a) A consumer reporting agency that acts only as a reseller
2 of credit information by assembling and merging information
3 contained in the database of another consumer reporting agency or
4 multiple consumer reporting agencies and does not maintain a
5 permanent database of credit information from which new consumer
6 reports are produced. However, a consumer reporting agency acting
7 as a reseller shall honor any security freeze placed on a consumer
8 credit report by another consumer reporting agency.

9 (b) A check services or fraud prevention services company that
10 issues reports on incidents of fraud or authorizations for the
11 purpose of approving or processing negotiable instruments,
12 electronic funds transfers, or similar methods of payments.

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

19 Sec. 19. (1) This act does not apply to the use of a consumer
20 report by any of the following:

21 (a) If the consumer report is used for the purpose of
22 reviewing the account or collecting the financial obligation owing
23 for the account, contract, or negotiable instrument, a person with
24 which a consumer has or had prior to assignment an account or
25 contract or to which the consumer has issued a negotiable
26 instrument; a subsidiary, affiliate, or agent of that person; an
27 assignee of a financial obligation owed by the consumer to that

1 person; or a prospective assignee of a financial obligation owed by
2 the consumer to that person in conjunction with the proposed
3 purchase of the financial obligation.

4 (b) A subsidiary, affiliate, agent, assignee, or prospective
5 assignee of a person to which access has been granted for purposes
6 of facilitating an extension of credit or other permissible use.

7 (c) A state or local agency, law enforcement agency, trial
8 court, or private collection agency acting pursuant to a court
9 order, warrant, or subpoena.

10 (d) A child support agency acting pursuant to part d of title
11 IV of the social security act, 42 USC 651 to 669b.

12 (e) The state or its agents or assigns acting to investigate
13 fraud, acting to investigate or collect delinquent taxes or unpaid
14 court orders, or acting to fulfill any of its other statutory
15 responsibilities if those responsibilities are consistent with a
16 permissible purpose under 15 USC 1681b.

17 (f) A person setting or adjusting a rate, adjusting a claim,
18 or underwriting for insurance purposes.

19 (g) A person using credit information for the purpose of
20 prescreening as provided for by the fair credit reporting act, 15
21 USC 1681 to 1681v.

22 (h) A person administering a consumer report monitoring
23 subscription service to which the consumer has subscribed.

24 (i) A person providing a consumer with a copy of his or her
25 consumer report in response to the consumer's request.

26 (2) As used in this section:

27 (a) "Account" includes a demand deposit account.

1 (b) "Reviewing the account" includes activities related to
2 account maintenance, monitoring, credit line increases, and account
3 upgrades and enhancements.

4 Enacting section 1. This act takes effect January 1, 2008.