

109TH CONGRESS
2^D SESSION

H. R. 5482

To amend the Fair Credit Reporting Act to provide individuals the ability to control access to their credit reports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2006

Mrs. MALONEY introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to provide individuals the ability to control access to their credit reports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft Protec-
5 tion Act of 2006”.

6 **SEC. 2. PROTECTION OF DATA THROUGH SECURITY**
7 **FREEZE.**

8 (a) IN GENERAL.—The Fair Credit Reporting Act
9 (15 U.S.C. 1681 et seq.) is amended by inserting after

1 section 605B (relating to block resulting from identity
2 theft) the following new section:

3 **“§ 605C. Protection of data through security freeze**

4 “(a) IN GENERAL.—

5 “(1) EMPLACEMENT.—A consumer may place a
6 security freeze on the consumer report of the con-
7 sumer by making a request to a consumer reporting
8 agency in writing or by telephone.

9 “(2) CONSUMER DISCLOSURE.—If a consumer
10 requests a security freeze, the consumer reporting
11 agency shall disclose to the consumer the process of
12 placing and removing the security freeze and explain
13 to the consumer the potential consequences of the
14 security freeze.

15 “(b) EFFECT OF SECURITY FREEZE.—

16 “(1) RELEASE OF INFORMATION BLOCKED.—If
17 a security freeze is in place on a consumer report of
18 a consumer, a consumer reporting agency may not
19 release the consumer report or information from the
20 consumer report to a third party without prior ex-
21 press authorization from the consumer.

22 “(2) INFORMATION PROVIDED TO THIRD PAR-
23 TIES.—Paragraph (2) shall not be construed as pre-
24 venting a consumer reporting agency from advising

1 a third party that a security freeze is in effect with
2 respect to a consumer report of a consumer.

3 “(3) TREATMENT AS INCOMPLETE APPLICA-
4 TION.—If a third party, in connection with an appli-
5 cation for credit, requests access to a consumer re-
6 port on which a security freeze is in place, the third
7 party may treat the application as incomplete.

8 “(c) REMOVAL; TEMPORARY SUSPENSION.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (4), a security freeze shall remain in place
11 until the consumer requests that the security freeze
12 be removed. A consumer may remove a security
13 freeze on the consumer report of the consumer by
14 making a request to a consumer reporting agency in
15 writing or by telephone.

16 “(2) CONDITIONS.—A consumer reporting
17 agency may remove a security freeze placed on the
18 consumer report of a consumer only—

19 “(A) upon the consumer’s request, pursu-
20 ant to paragraph (1); or

21 “(B) if the agency determines that the
22 consumer report of a consumer was frozen due
23 to a material misrepresentation of fact by the
24 consumer.

1 “(3) NOTIFICATION TO CONSUMER.—If a con-
2 sumer reporting agency intends to remove a freeze
3 upon the consumer report of a consumer pursuant
4 to paragraph (2)(B), the consumer reporting agency
5 shall notify the consumer in writing prior to remov-
6 ing the freeze on the consumer report.

7 “(4) TEMPORARY SUSPENSION.—A consumer
8 may have a security freeze on the consumer report
9 of the consumer temporarily suspended by making a
10 request to a consumer reporting agency in writing or
11 by telephone and specifying beginning and ending
12 dates for the period during which the security freeze
13 is not to apply to the consumer report of the con-
14 sumer.

15 “(d) RESPONSE TIMES; NOTIFICATION OF OTHER
16 ENTITIES.—

17 “(1) IN GENERAL.—A consumer reporting
18 agency shall—

19 “(A) place a security freeze on the con-
20 sumer report of a consumer under subsection
21 (a) not later than 5 business days after receiv-
22 ing a request from the consumer under sub-
23 section (a)(1); and

24 “(B) remove, or temporarily suspend, a se-
25 curity freeze within 3 business days after re-

1 ceiving a request for removal or temporary sus-
2 pension from the consumer under subsection
3 (c).

4 “(2) NOTIFICATION OF OTHER COVERED ENTI-
5 TIES.—If the consumer requests in writing or by
6 telephone that other covered entities be notified of
7 the request, the consumer reporting agency shall no-
8 tify all other consumer reporting agencies described
9 in section 603(p)(1) of the request within 3 days
10 after placing, removing, or temporarily suspending a
11 security freeze on the consumer report of the con-
12 sumer under subsection (a), (c)(2)(A), or (c)(4), re-
13 spectively.

14 “(3) IMPLEMENTATION BY OTHER COVERED
15 ENTITIES.—A consumer reporting agency that is no-
16 tified of a request under paragraph (2) to place, re-
17 move, or temporarily suspend a security freeze on a
18 consumer report of a consumer shall place, remove,
19 or temporarily suspend the security freeze on that
20 consumer report within 3 business days after receiv-
21 ing the notification.

22 “(e) CONFIRMATION.—

23 “(1) IN GENERAL.—Whenever a consumer re-
24 porting agency places, removes, or temporarily sus-
25 pends a security freeze on the consumer report of a

1 consumer at the request of that consumer under
2 subsection (a) or (c), respectively, the consumer re-
3 porting agency shall send a written confirmation of
4 such action to the consumer within 10 business days
5 after placing, removing, or temporarily suspending
6 the security freeze on the consumer report.

7 “(2) EXCEPTION.—This subsection shall not
8 apply to the placement, removal, or temporary sus-
9 pension of a security freeze by a consumer reporting
10 agency because of a notification received under sub-
11 section (d)(2).

12 “(f) ID REQUIRED.—A consumer reporting agency
13 may not place, remove, or temporarily suspend a security
14 freeze on the consumer report of a consumer at the con-
15 sumer’s request unless the consumer provides proper iden-
16 tification (within the meaning of section 610(a)(1)) and
17 the regulations prescribed under such subsection.

18 “(g) EXCEPTIONS.—This section shall not apply to
19 the use of a consumer credit report by any of the fol-
20 lowing:

21 “(1) A person or entity, or a subsidiary, affil-
22 iate, or agent of that person or entity, or an as-
23 signee of a financial obligation owing by the con-
24 sumer to that person or entity, or a prospective as-
25 signee of a financial obligation owing by the con-

1 consumer to that person or entity in conjunction with
2 the proposed purchase of the financial obligation,
3 with which the consumer has or had prior to assign-
4 ment an account or contract, including a demand de-
5 posit account, or to whom the consumer issued a ne-
6 gotiable instrument, for the purposes of reviewing
7 the account or collecting the financial obligation
8 owing for the account, contract, or negotiable instru-
9 ment.

10 “(2) Any Federal, State or local agency, law en-
11 forcement agency, trial court, or private collection
12 agency acting pursuant to a court order, warrant, or
13 subpoena.

14 “(3) A child support agency or its agents or as-
15 signs acting pursuant to subtitle D of title IV of the
16 Social Security Act or similar State law.

17 “(4) The Department of Health and Human
18 Services, a similar State agency, or the agents or as-
19 signs of the Federal or State agency acting to inves-
20 tigate medicare or medicaid fraud.

21 “(5) The Internal Revenue Service or a State
22 or municipal taxing authority, or a State department
23 of motor vehicles, or any of the agents or assigns of
24 these Federal, State, or municipal agencies acting to
25 investigate or collect delinquent taxes or unpaid

1 court orders or to fulfill any of their other statutory
2 responsibilities.

3 “(6) The use of consumer credit information for
4 the purposes of prescreening as provided under this
5 title.

6 “(7) Any person or entity administering a cred-
7 it file monitoring subscription to which the consumer
8 has subscribed.

9 “(8) Any person or entity for the purpose of
10 providing a consumer with a copy of his or her cred-
11 it report or credit score upon the consumer’s re-
12 quest.

13 “(h) FEES.—

14 “(1) IN GENERAL.—

15 “(A) CERTAIN REASONABLE FEES AL-
16 LOWED.—Except as provided in paragraph (2),
17 a consumer reporting agency may charge a rea-
18 sonable fee, as determined by the Commission,
19 for placing or temporarily suspending a security
20 freeze on the consumer report of a consumer.

21 “(B) FACTORS TO BE CONSIDERED.—In
22 considering what is reasonable for the purpose
23 of subparagraph (A), the Commission shall con-
24 sider the prevailing fees permitted by State law

1 immediately before the date of the enactment of
2 the Identity Theft Protection Act of 2006.

3 “(C) FEE FOR REMOVAL OF FREEZE PRO-
4 HIBITED.—No fee may be charged for removal
5 of a security freeze.

6 “(2) ID THEFT VICTIMS.—A consumer report-
7 ing agency may not charge a fee for placing, remov-
8 ing, or temporarily suspending a security freeze on
9 the consumer report of a consumer if—

10 “(A) the consumer—

11 “(i) is a victim of identity theft; and

12 “(ii) has filed a police report, inves-
13 tigative report, or complaint made to a po-
14 lice department with respect to the theft;
15 or

16 “(B) the consumer is the recipient of a no-
17 tice that a breach of data security has occurred
18 with respect to information of the consumer
19 that is required by law to be maintained se-
20 curely and in confidence.

21 “(i) LIMITATION ON INFORMATION CHANGES IN
22 FROZEN REPORTS.—

23 “(1) IN GENERAL.—If a security freeze is in
24 place on the consumer report of a consumer, a con-
25 sumer reporting agency may not change any of the

1 following official information in that consumer re-
2 port without sending a written confirmation of the
3 change to the consumer within 30 days after the
4 change is made:

5 “(A) Name.

6 “(B) Date of birth.

7 “(C) Social Security number.

8 “(D) Address.

9 “(2) CONFIRMATION.—

10 “(A) IN GENERAL.—Paragraph (1) shall
11 not be construed as requiring written confirma-
12 tion for technical modifications of a consumer’s
13 official information, including name and street
14 abbreviations, complete spellings, or transposi-
15 tion of numbers or letters.

16 “(B) OLD AND NEW ADDRESSES.—In the
17 case of an address change, the written con-
18 firmation shall be sent to both the new address
19 and to the former address.

20 “(j) CERTAIN ENTITY EXEMPTIONS.—

21 “(1) AGGREGATORS AND OTHER AGENCIES.—

22 The provisions of subsections (a) through (h) shall
23 not apply to a consumer reporting agency that acts
24 only as a reseller of credit information by assembling
25 and merging information contained in the data base

1 of another consumer reporting agency or multiple
2 consumer reporting agencies, and does not maintain
3 a permanent data base of consumer information
4 from which new consumer reports are produced.

5 “(2) OTHER EXEMPTED ENTITIES.—The fol-
6 lowing entities shall not be required to place a secu-
7 rity freeze in a consumer report under this section:

8 “(A) A check services or fraud prevention
9 services company, which issues reports on inci-
10 dents of fraud or authorizations for the purpose
11 of approving or processing negotiable instru-
12 ments, electronic funds transfers, or similar
13 methods of payments.

14 “(B) A deposit account information service
15 company, which issues reports regarding ac-
16 count closures due to fraud, substantial over-
17 drafts, automated teller machine abuse, or simi-
18 lar negative information regarding a consumer,
19 to inquiring depository institutions or other fi-
20 nancial institutions for use only in reviewing a
21 consumer request for a deposit account at the
22 inquiring depository institution or other finan-
23 cial institution.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect at the end of the 6-month
3 period beginning on the date of the enactment of this Act.

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