

1 HB313  
2 124212-2  
3 By Representatives Bridges, Laird, Johnson (W) and Millican  
4 RFD: Financial Services  
5 First Read: 22-MAR-11

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8 SYNOPSIS: Existing law does not allow a consumer who  
9 is a victim of identity theft to place a security  
10 freeze on his or her consumer credit accounts.

11 This bill would provide for procedures for  
12 placing, removing, and temporarily lifting a  
13 security freeze on a consumer credit account. This  
14 bill would provide for fees and fines for  
15 violations. This bill would provide for notice to  
16 consumers.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to protection from identity theft; to  
23 provide for security freezes on consumer credit accounts; to  
24 provide for definitions; to provide for procedures for  
25 placing, removing, and temporarily lifting a security freeze;  
26 to provide for fees; to provide for fines for violations; and  
27 to provide for notice to consumers.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. As used in this section, the following  
3 terms shall have the following meanings:

4 (1) CONSUMER. A natural person residing in this  
5 state.

6 (2) CONSUMER CREDIT REPORT. A consumer report, as  
7 defined in 15 U.S.C. §1681a(d), that a consumer reporting  
8 agency furnishes to a person which it has reason to believe  
9 intends to use the information as a factor in establishing the  
10 consumer's eligibility for credit to be used primarily for  
11 personal, family, or household purposes.

12 (3) CONSUMER CREDIT REPORTING AGENCY. Any person  
13 who, for monetary fees, dues, or on a cooperative nonprofit  
14 basis, regularly engages in whole or in part in the practice  
15 of assembling or evaluating consumer credit information or  
16 other information on consumers for the purpose of furnishing  
17 consumer credit reports to third parties.

18 (4) NORMAL BUSINESS HOURS. Any day between the hours  
19 of 8:00 A.M. and 9:30 P.M., Central Standard Time.

20 (5) PERSON. Any individual, partnership,  
21 corporation, trust, estate, cooperative, association,  
22 government or governmental subdivision or agency, or other  
23 entity.

24 (6) PROPER IDENTIFICATION. Information generally  
25 deemed sufficient to identify a person for consumer reporting  
26 agency purposes under 15 U.S.C. §1681 et seq.

1           (7) SECURITY FREEZE. A restriction placed on a  
2 consumer credit report at the request of the consumer that  
3 prohibits a consumer credit reporting agency from releasing  
4 the consumer's consumer credit report for a purpose relating  
5 to the extension of credit without the express authorization  
6 of the consumer.

7           Section 2. (a) A consumer may place a security  
8 freeze on the consumer's credit report by making a request in  
9 writing by certified mail to a consumer credit reporting  
10 agency. No later than 30 days after the effective date of this  
11 act, a consumer credit reporting agency shall make available  
12 to consumers an Internet based method of requesting a security  
13 freeze and a toll-free telephone number for consumers to use  
14 to place a security freeze, temporarily lift a security  
15 freeze, or completely remove a security freeze. A security  
16 freeze shall prohibit, subject to exceptions in subsection  
17 (m), the consumer credit reporting agency from releasing the  
18 consumer's credit report or credit score without the prior  
19 express authorization of the consumer as provided in  
20 subsection (d) or (e). Nothing in this subsection shall  
21 prevent a consumer credit reporting agency from advising a  
22 third party that a security freeze is in effect with respect  
23 to the consumer's credit report.

24           (b) A consumer credit reporting agency shall place a  
25 security freeze on a consumer's credit report no later than  
26 three business days after receiving the consumer's written  
27 request sent by certified mail.

1 (c) The consumer credit reporting agency shall send  
2 a written confirmation of the security freeze to the consumer  
3 within 10 business days of placing the security freeze and at  
4 the same time shall provide the consumer with a unique  
5 personal identification number or password, other than the  
6 consumer's Social Security number, to be used by the consumer  
7 when providing authorization for the release of the consumer's  
8 credit report for a specific period of time.

9 (d) If the consumer wishes to allow the consumer's  
10 credit report to be accessed for a specific period of time  
11 while a security freeze is in place, the consumer shall  
12 contact the consumer credit reporting agency through the  
13 contact method established by the consumer credit reporting  
14 agency, request that the security freeze be temporarily  
15 lifted, and provide all of the following:

16 (1) Proper identification.

17 (2) The unique personal identification number or  
18 password provided by the consumer credit reporting agency  
19 pursuant to subsection (c).

20 (3) The proper information regarding the time period  
21 for which the report shall be available to users of the  
22 consumer credit report.

23 (4) The proper payment as may be required by the  
24 consumer credit reporting agency.

25 (e) A consumer credit reporting agency shall develop  
26 procedures involving the use of telephone, the Internet, or  
27 other electronic media to receive and process a request from a

1 consumer to temporarily lift a security freeze on a consumer  
2 credit report pursuant to subsection (d).

3 (f) A consumer credit reporting agency that receives  
4 a request from a consumer to temporarily lift a security  
5 freeze on a consumer credit report pursuant to subsection (d)  
6 or (e) shall comply with the request as follows:

7 (1) No later than three business days after  
8 receiving a written request.

9 (2) Within 15 minutes after the request and payment  
10 are received by telephone or electronically by the contact  
11 method chosen by the consumer reporting agency during normal  
12 business hours and the request includes the consumer's proper  
13 identification, correct personal identification number or  
14 password, and the proper payment as may be required by the  
15 consumer credit reporting agency.

16 (g) A consumer reporting agency need not temporarily  
17 lift a security freeze within 15 minutes, as specified in  
18 subdivision (2) of subsection (f), if either of the following  
19 occurs:

20 (1) The consumer fails to satisfy the requirements  
21 of subsection (d).

22 (2) The consumer credit reporting agency's ability  
23 to temporarily lift the security freeze within 15 minutes is  
24 prevented by the following:

25 a. An act of God, including earthquakes, hurricanes,  
26 storms, or similar natural disaster or phenomenon, or fire.

1           b. Unauthorized or illegal acts by a third party,  
2 including terrorism, sabotage, riot, vandalism, labor strikes  
3 or disputes disrupting operations, or similar occurrence.

4           c. Operational interruption, including electrical  
5 failure, unanticipated delay in equipment or replacement part  
6 delivery, computer hardware or software failures inhibiting  
7 response time, or similar disruption.

8           d. Governmental action, including emergency orders  
9 or regulations, judicial or law enforcement action, or similar  
10 directives.

11           e. Regularly scheduled maintenance or updates,  
12 during other than normal business hours, to the consumer  
13 reporting agency's systems.

14           f. Commercially reasonable maintenance of, or repair  
15 to, the consumer reporting agency's systems that is unexpected  
16 or unscheduled.

17           g. Receipt of a request outside of normal business  
18 hours.

19           (h) A consumer credit reporting agency shall only  
20 remove or temporarily lift a security freeze placed on a  
21 consumer's credit report upon any of the following  
22 circumstances:

23           (1) Upon the consumer's request, in compliance with  
24 the requirements of this section.

25           (2) If the consumer's credit report was frozen due  
26 to a material misrepresentation of fact by the consumer. If a  
27 consumer credit reporting agency intends to remove a security

1 freeze upon a consumer's credit report pursuant to this  
2 paragraph, the consumer credit reporting agency shall notify  
3 the consumer in writing prior to removing the security freeze  
4 on the consumer's credit report.

5 (i) If a third party requests access to a consumer  
6 credit report on which a security freeze is in effect and this  
7 request is in connection with an application for credit or any  
8 other use related to the extension of credit and the consumer  
9 does not allow the consumer's credit report to be accessed for  
10 that specific period of time, the third party may treat the  
11 application as incomplete.

12 (j) If a consumer requests a security freeze  
13 pursuant to this section, the consumer credit reporting agency  
14 shall disclose to the consumer the process of placing and  
15 temporarily lifting a security freeze and the process for  
16 allowing access to information from the consumer's credit  
17 report for a specific period of time while the security freeze  
18 is in place.

19 (k) A security freeze shall remain in place until  
20 the consumer requests that the security freeze be removed. A  
21 consumer credit reporting agency shall remove a security  
22 freeze within three business days of receiving a request for  
23 removal from the consumer. The consumer shall provide all of  
24 the following:

25 (1) Proper identification.



1           (2) The unique personal identification number or  
2 password provided by the consumer credit reporting agency  
3 pursuant to subsection (c).

4           (3) The proper fee as may be required by the  
5 consumer credit reporting agency.

6           (1) A consumer credit reporting agency shall require  
7 proper identification of the person making a request to place,  
8 temporarily lift, or remove a security freeze.

9           (m) By way of example only, and not intending to be  
10 exclusive, this section shall not apply to the use of a  
11 consumer credit report by any of the following:

12           (1) A person, or the person's subsidiary, affiliate,  
13 agent, subcontractor, or assignee with whom the consumer has,  
14 or prior to assignment had, an account, contract, or  
15 debtor-creditor relationship for the purposes of reviewing the  
16 active account or collecting the financial obligation owing  
17 for the account, contract, or debt.

18           (2) A subsidiary, affiliate, agent, assignee, or  
19 prospective assignee of a person to whom access has been  
20 granted under subsection (d) for purposes of facilitating the  
21 extension of credit or other permissible use.

22           (3) Any person acting pursuant to a court order,  
23 warrant, or subpoena.

24           (4) A state or local agency, or its agents or  
25 assigns, which administers a program for establishing and  
26 enforcing child support obligations.

1           (5) A state or local agency, or its agents or  
2 assigns, acting to investigate fraud, including Medicaid  
3 fraud; acting to investigate or collect delinquent taxes or  
4 assessments, including interest, penalties, and unpaid court  
5 orders; or acting to fulfill any of its other statutory  
6 responsibilities.

7           (6) A federal, state, or local governmental entity,  
8 including a law enforcement agency, court, or its agents or  
9 assigns.

10           (7) Any person for the use of a credit report for  
11 purposes permitted under 15 U.S.C. §1681b(c).

12           (8) Any person for the sole purpose of providing a  
13 credit file monitoring subscription service to which the  
14 consumer has subscribed.

15           (9) Any person for the purpose of providing a  
16 consumer with a copy of the consumer's credit report or credit  
17 score upon the consumer's request.

18           (10) Any depository financial institution for  
19 checking, savings, and investment accounts.

20           (11) Any person or entity for insurance purposes,  
21 including use in setting or adjusting a rate, adjusting a  
22 claim, or underwriting.

23           (n) If a security freeze is in place, a consumer  
24 credit reporting agency shall not change any of the following  
25 official information in a credit report without sending a  
26 written confirmation of the change to the consumer within 30  
27 days of the change being posted to the consumer's file: Name,

1 date of birth, Social Security number, and address. Written  
2 confirmation shall not be required for technical modifications  
3 of a consumer's official information, including name and  
4 street abbreviations, complete spellings, or transposition of  
5 numbers or letters. In the case of an address change, the  
6 written confirmation shall be sent to both the new address and  
7 the former address.

8 (o) The following persons shall not be required to  
9 place a security freeze in a consumer credit report pursuant  
10 to this section, provided, however, that any person not  
11 required to place a security freeze on a consumer credit  
12 report under the provisions of subdivision (3) shall be  
13 subject to any security freeze placed on a consumer credit  
14 report by another consumer credit reporting agency from which  
15 it obtains information:

16 (1) A check services or fraud prevention services  
17 company, including reports on incidents of fraud, or  
18 authorizations for the purpose of approving or processing  
19 negotiable instruments, electronic funds transfers, or similar  
20 methods of payment.

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

1           (3) Resellers of consumer credit report information  
2 that assemble and merge information contained in a database of  
3 one or more consumer credit reporting agencies and do not  
4 maintain a permanent database of consumer credit information  
5 from which new consumer credit reports are produced.

6           (4) A consumer credit reporting agency's database or  
7 file which consists of information concerning, and used for,  
8 one or more of the following:

- 9           a. Criminal record information.
- 10           b. Fraud prevention or detection.
- 11           c. Personal claim loss history information.
- 12           d. Employment, tenant, or individual background  
13 screening.

14           (p) This section shall not prevent a consumer credit  
15 reporting agency from charging a fee of no more than ten  
16 dollars (\$10) to a consumer for each security freeze  
17 placement, any permanent removal of the security freeze, or  
18 any temporary lifting of the security freeze for a period of  
19 time. A consumer credit reporting agency shall not charge a  
20 person age 65 years or over for the placement of a security  
21 freeze. A consumer credit reporting agency shall not charge  
22 any fee to a victim of identity theft who has submitted a copy  
23 of a valid investigative or incident report or complaint with  
24 a law enforcement agency about the unlawful use of the  
25 victim's identifying information by another person that was  
26 filed with the law enforcement agency no more than 90 days  
27 prior to the consumer's request for a security freeze. A

1 consumer credit reporting agency may charge a fee of no more  
2 than five dollars (\$5) to a consumer for each replacement of a  
3 unique personal identification number or password.

4 (q) A person that violates this section may be fined  
5 not more than one hundred dollars (\$100) for a violation  
6 concerning a specific consumer.

7 Section 3. At any time that a consumer is required  
8 to receive a summary of rights required by 15 U.S.C. §1681g(d)  
9 of the federal Fair Credit Reporting Act, the consumer shall  
10 also be provided with the following notice:

11 "Alabama Consumers Have the Right to Obtain a  
12 Security Freeze. You have a right to place a security freeze  
13 on your credit report, which will prohibit a consumer  
14 reporting agency from releasing information in your credit  
15 report without your express authorization. A security freeze  
16 must be requested in writing by certified mail or by  
17 electronic means as provided by a consumer reporting agency.  
18 The security freeze is designed to prevent credit, loans, and  
19 services from being approved in your name without your  
20 consent. If you are actively seeking a new credit, loan,  
21 utility, telephone, or insurance account, you should  
22 understand that the procedures involved in lifting a security  
23 freeze may slow your applications for credit. You should plan  
24 ahead and lift a freeze in advance of actually applying for  
25 new credit. When you place a security freeze on your credit  
26 report, you will be provided a personal identification number  
27 or password to use if you choose to remove the freeze on your

1 credit report or authorize the release of your credit report  
2 for a period of time after the freeze is in place.

3 "To provide that authorization you must contact the  
4 consumer reporting agency and provide all of the following:

5 "(1) Your personal identification number or  
6 password.

7 "(2) Proper identification to verify your identity.

8 "(3) The proper information regarding the period of  
9 time for which the report shall be available. A consumer  
10 reporting agency must authorize the release of your credit  
11 report no later than 15 minutes after receiving the above  
12 information if the request is by electronic means or by  
13 telephone, or no later than three business days when a written  
14 request is submitted.

15 "A security freeze does not apply to a person or  
16 entity, or its affiliates or collection agencies acting on  
17 behalf of the person or entity, with which you have an  
18 existing account, that requests information in your credit  
19 report for the purposes of reviewing or collecting the  
20 account. Reviewing the account includes activities related to  
21 account maintenance. Unless you are a victim of identity theft  
22 with a police report or other official document acceptable to  
23 a consumer reporting agency to verify the crimes, or you are  
24 65 years of age or older, a consumer reporting agency has the  
25 right to charge you a fee of no more than ten dollars (\$10) to  
26 place a freeze on your credit report."

1                   Section 4. This act shall become effective on the  
2           first day of the third month following its passage and  
3           approval by the Governor, or its otherwise becoming law.