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**Financial Institutions &  
Insurance Committee**

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**ESB 5418**

**Brief Description:** Allowing consumers to place a security freeze on a credit report.

**Sponsors:** Senators Berkey, Benton, Fairley, Shin, Kastama, Carrell, McAuliffe, Benson, Prentice, Delvin, Kohl-Welles, Keiser and Kline.

**Brief Summary of Engrossed Bill**

- Allows consumers to place a security freeze on their credit reports, subject to certain exceptions.
- Authorizes consumer credit reporting agencies to charge a fee for placing a security freeze and for removing or temporarily lifting a security freeze.
- Permits consumers to submit requests in writing or via the phone to have their names removed from any list that a consumer credit reporting agency furnishes for purposes of credit card solicitation.

**Hearing Date:** 3/17/05

**Staff:** CeCe Clynch (786-7168).

**Background:**

"Identity theft" is defined, by the Federal Trade Commission (FTC), as "someone appropriating your personal information without your knowledge to commit fraud or theft." With 5,654 complaints reported in Washington in 2004, this state is eighth among the states in the per capita reporting of identity theft.

Consumer credit reports contain personal information such as name, address, former address, and social security number. They also include information on bill paying habits, credit history, and public record information on finances such as bankruptcies, liens, and court judgments. The three primary consumer credit reporting agencies - Equifax, Experian, and Transunion - obtain much of their information from national credit card, automobile finance, and student loan companies which report to these three primary agencies regularly. Other, smaller entities which extend credit to consumers provide information as well, though not always on a regular basis.

Individuals, businesses, and government agencies may request a credit report for legitimate business needs involving a transaction with a consumer such as an application for credit, opening an account, a security clearance, employment, and collection of an account.

Current Washington law permits a victim of identity theft to permanently block a consumer reporting agency from reporting information the consumer identifies as being the result of identity theft. Federal law contains similar blocking provisions available to identity theft victims. In addition, under federal law, all consumers are entitled to one free credit report per year.

Neither federal law nor Washington law allows a consumer to block dissemination of his or her credit report. Some states do permit consumers to place a security freeze on their credit reports. All consumers in California and Louisiana may do so. In Texas and Vermont, only victims of identity theft may institute such a freeze.

### **Summary of Bill:**

A consumer may elect to place a security freeze on his or her credit report by submitting a written request via certified mail to a consumer credit reporting agency. Subject to certain enumerated exceptions, upon receipt of the written request the credit reporting agency is prohibited from releasing the report or information from the report without the consumer's express permission.

A consumer requesting a freeze is given a personal identification number to use when making a request for a temporary lifting of the freeze and release to a particular person or entity. Credit reporting agencies may charge a fee up to \$10 for each freeze, removal of freeze, or temporary lifting of the freeze. A fee up to \$12 may be charged for a temporary lifting of the freeze as to a specific party. Victims of identity theft are exempt from paying fees.

A security freeze does not bar release of a credit report to:

- persons or entities to whom the consumer owes money;
- entities, and their affiliates and subsidiaries, with respect to whom the freeze has been lifted by the consumer;
- law enforcement, state and local agencies, courts, and private collection agencies acting under court order;
- a child support agency acting under Title IV-D of the Social Security Act;
- the Department of Social and Health Services acting to fulfill any of its statutory responsibilities;
- the Internal Revenue Service (IRS); and
- a person administering credit file monitoring with respect to a subscription service to which the consumer has subscribed.

While a freeze is in effect, a consumer credit reporting agency must provide the consumer with notice before changing the name, date of birth, social security number, or address in the consumer's file. A reporting agency may advise third parties that a freeze is in effect. A reporting agency may also furnish to a government agency certain information such as the consumer's name, address, former address, place of employment, and former place of employment.

Certain entities are not required to place a security freeze in a credit report:

- a check services or fraud prevention services company; and
- a deposit account information service company which issues reports regarding account closures and ATM abuse.

Another provision will allow a consumer to elect to have his or her name removed from any list that a consumer credit reporting agent furnishes for credit card solicitation. A consumer may request removal from a credit card solicitation list via the mail or by phone and such an election shall be effective for a minimum of two years.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.