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SENATE BILL 6665

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State of Washington                      59th Legislature                      2006 Regular Session

By Senators Kohl-Welles, Benton, Fairley, Schmidt and Rasmussen

Read first time 01/18/2006. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1            AN ACT Relating to victims of personal information security  
2 breaches; amending RCW 48.18.545; adding new sections to chapter 19.182  
3 RCW; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to read  
6 as follows:

7            (1) For the purposes of this section:

8            (a) "Adverse action" has the same meaning as defined in the fair  
9 credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions  
10 include, but are not limited to:

11            (i) Cancellation, denial, or nonrenewal of personal insurance  
12 coverage;

13            (ii) Charging a higher insurance premium for personal insurance  
14 than would have been offered if the credit history or insurance score  
15 had been more favorable, whether the charge is by:

16            (A) Application of a rating rule;

17            (B) Assignment to a rating tier that does not have the lowest  
18 available rates; or

1 (C) Placement with an affiliate company that does not offer the  
2 lowest rates available to the consumer within the affiliate group of  
3 insurance companies; or

4 (iii) Any reduction, adverse, or unfavorable change in the terms of  
5 coverage or amount of any personal insurance due to a consumer's credit  
6 history or insurance score. A reduction, adverse, or unfavorable  
7 change in the terms of coverage occurs when:

8 (A) Coverage provided to the consumer is not as broad in scope as  
9 coverage requested by the consumer but available to other insureds of  
10 the insurer or any affiliate; or

11 (B) The consumer is not eligible for benefits such as dividends  
12 that are available through affiliate insurers.

13 (b) "Affiliate" has the same meaning as defined in RCW  
14 48.31B.005(1).

15 (c) "Consumer" means an individual policyholder or applicant for  
16 insurance.

17 (d) "Consumer report" has the same meaning as defined in the fair  
18 credit reporting act, 15 U.S.C. Sec. 1681 et seq.

19 (e) "Credit history" means any written, oral, or other  
20 communication of any information by a consumer reporting agency bearing  
21 on a consumer's creditworthiness, credit standing, or credit capacity  
22 that is used or expected to be used, or collected in whole or in part,  
23 for the purpose of serving as a factor in determining personal  
24 insurance premiums or eligibility for coverage.

25 (f) "Insurance score" means a number or rating that is derived from  
26 an algorithm, computer application, model, or other process that is  
27 based in whole or in part on credit history.

28 (g) "Personal insurance" means:

29 (i) Private passenger automobile coverage;

30 (ii) Homeowner's coverage, including mobile homeowners,  
31 manufactured homeowners, condominium owners, and renter's coverage;

32 (iii) Dwelling property coverage;

33 (iv) Earthquake coverage for a residence or personal property;

34 (v) Personal liability and theft coverage;

35 (vi) Personal inland marine coverage; and

36 (vii) Mechanical breakdown coverage for personal auto or home  
37 appliances.

1 (h) "Tier" means a category within a single insurer into which  
2 insureds with substantially like insuring, risk or exposure factors,  
3 and expense elements are placed for purposes of determining rate or  
4 premium.

5 (2) An insurer that takes adverse action against a consumer based  
6 in whole or in part on credit history or insurance score shall provide  
7 written notice to the applicant or named insured. The notice must  
8 state the significant factors of the credit history or insurance score  
9 that resulted in the adverse action. The insurer shall also inform the  
10 consumer that the consumer is entitled to a free copy of their consumer  
11 report under the fair credit reporting act.

12 (3) An insurer shall not cancel or nonrenew personal insurance  
13 based in whole or in part on a consumer's credit history or insurance  
14 score. An offer of placement with an affiliate insurer does not  
15 constitute cancellation or nonrenewal under this section.

16 (4) An insurer may use credit history to deny personal insurance  
17 only in combination with other substantive underwriting factors. For  
18 the purposes of this subsection:

19 (a) "Deny" means an insurer refuses to offer insurance coverage to  
20 a consumer;

21 (b) An offer of placement with an affiliate insurer does not  
22 constitute denial of coverage; and

23 (c) An insurer may reject an application when coverage is not bound  
24 or cancel an insurance contract within the first sixty days after the  
25 effective date of the contract.

26 (5) Insurers shall not deny personal insurance coverage based on:

27 (a) The absence of credit history or the inability to determine the  
28 consumer's credit history, if the insurer has received accurate and  
29 complete information from the consumer;

30 (b) The number of credit inquiries;

31 (c) Credit history or an insurance score based on collection  
32 accounts identified with a medical industry code;

33 (d) The initial purchase or finance of a vehicle or house that adds  
34 a new loan to the consumer's existing credit history, if evident from  
35 the consumer report; however, an insurer may consider the bill payment  
36 history of any loan, the total number of loans, or both;

37 (e) The consumer's use of a particular type of credit card, charge  
38 card, or debit card; ((~~or~~))

1 (f) The consumer's total available line of credit; however, an  
2 insurer may consider the total amount of outstanding debt in relation  
3 to the total available line of credit; or

4 (g) The consumer's status as a victim of identity theft as defined  
5 in RCW 9.35.005(5).

6 (6)(a) If disputed credit history is used to determine eligibility  
7 for coverage and a consumer is placed with an affiliate that charges  
8 higher premiums or offers less favorable policy terms:

9 (i) The insurer shall reissue or rerate the policy retroactive to  
10 the effective date of the current policy term; and

11 (ii) The policy, as reissued or rerated, shall provide premiums and  
12 policy terms the consumer would have been eligible for if accurate  
13 credit history had been used to determine eligibility.

14 (b) This subsection only applies if the consumer resolves the  
15 dispute under the process set forth in the fair credit reporting act  
16 and notifies the insurer in writing that the dispute has been resolved.

17 (7) The commissioner may adopt rules to implement this section.

18 (8) This section applies to all personal insurance policies issued  
19 or renewed after January 1, 2003.

20 NEW SECTION. Sec. 2. A new section is added to chapter 19.182 RCW  
21 to read as follows:

22 (1) A consumer may elect to place a security freeze on his or her  
23 credit report by making a request in writing by certified mail to a  
24 consumer credit reporting agency. "Security freeze" means a notice  
25 placed in a consumer's credit report, at the request of the consumer  
26 and subject to certain exceptions, that prohibits the consumer credit  
27 reporting agency from releasing the consumer's credit report or any  
28 information from it without the express authorization of the consumer.  
29 If a security freeze is in place, information from a consumer's credit  
30 report may not be released to a third party without prior express  
31 authorization from the consumer. This subsection does not prevent a  
32 consumer credit reporting agency from advising a third party that a  
33 security freeze is in effect with respect to the consumer's credit  
34 report.

35 (2) A consumer credit reporting agency shall place a security  
36 freeze on a consumer's credit report no later than five business days  
37 after receiving a written request from the consumer.

1 (3) The consumer credit reporting agency shall send a written  
2 confirmation of the security freeze to the consumer within ten business  
3 days and shall provide the consumer with a unique personal  
4 identification number or password to be used by the consumer when  
5 providing authorization for the release of his or her credit for a  
6 specific party or period of time.

7 (4) If the consumer wishes to allow his or her credit report to be  
8 accessed for a specific party or period of time while a freeze is in  
9 place, he or she shall contact the consumer credit reporting agency,  
10 request that the freeze be temporarily lifted, and provide the  
11 following:

12 (a) Proper identification, which means that information generally  
13 deemed sufficient to identify a person. Only if the consumer is unable  
14 to reasonably identify himself or herself, may a consumer credit  
15 reporting agency require additional information concerning the  
16 consumer's employment and personal or family history in order to verify  
17 his or her identity;

18 (b) The unique personal identification number or password provided  
19 by the credit reporting agency under subsection (3) of this section;  
20 and

21 (c) The proper information identifying the third party who is to  
22 receive the credit report or the time period for which the report is  
23 available to users of the credit report.

24 (5) A consumer credit reporting agency that receives a request from  
25 a consumer to temporarily lift a freeze on a credit report under  
26 subsection (4) of this section, shall comply with the request no later  
27 than three business days after receiving the request.

28 (6) A consumer credit reporting agency may develop procedures  
29 involving the use of telephone, fax, the internet, or other electronic  
30 media to receive and process a request from a consumer to temporarily  
31 lift a freeze on a credit report under subsection (4) of this section  
32 in an expedited manner.

33 (7) A consumer credit reporting agency shall remove or temporarily  
34 lift a freeze placed on a consumer's credit report only in the  
35 following cases:

36 (a) Upon consumer request, under subsection (4) or (10) of this  
37 section; and

1 (b) When the consumer's credit report was frozen due to a material  
2 misrepresentation of fact by the consumer. When a consumer credit  
3 reporting agency intends to remove a freeze upon a consumer's credit  
4 report under this subsection, the consumer credit reporting agency  
5 shall notify the consumer in writing thirty days prior to removing the  
6 freeze on the consumer's credit report.

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

13 (9) When a consumer requests a security freeze, the consumer credit  
14 reporting agency shall disclose the process of placing and temporarily  
15 lifting a freeze, and the process for allowing access to information  
16 from the consumer's credit report for a specific party or period of  
17 time while the freeze is in place.

18 (10) A security freeze remains in place until the consumer requests  
19 that the security freeze be removed. A consumer credit reporting  
20 agency shall remove a security freeze within three business days of  
21 receiving a request for removal from the consumer, who provides both of  
22 the following:

23 (a) Proper identification, as defined in subsection (4)(a) of this  
24 section; and

25 (b) The unique personal identification number or password provided  
26 by the credit reporting agency under subsection (3) of this section.

27 (11) This section does not apply to the use of a consumer credit  
28 report by any of the following:

29 (a) A person or entity, or a subsidiary, affiliate, or agent of  
30 that person or entity, or an assignee of a financial obligation owing  
31 by the consumer to that person or entity, or a prospective assignee of  
32 a financial obligation owing by the consumer to that person or entity  
33 in conjunction with the proposed purchase of the financial obligation,  
34 with which the consumer has or had prior to assignment an account or  
35 contract, including a demand deposit account, or to whom the consumer  
36 issued a negotiable instrument, for the purposes of reviewing the  
37 account or collecting the financial obligation owing for the account,  
38 contract, or negotiable instrument. For purposes of this subsection,

1 "reviewing the account" includes activities related to account  
2 maintenance, monitoring, credit line increases, and account upgrades  
3 and enhancements;

4 (b) A subsidiary, affiliate, agent, assignee, or prospective  
5 assignee of a person to whom access has been granted under subsection  
6 (4) of this section for purposes of facilitating the extension of  
7 credit or other permissible use;

8 (c) Any state or local agency, law enforcement agency, or trial  
9 court, or a private collection agency acting under a court order,  
10 warrant, or subpoena;

11 (d) A child support agency acting under Title IV-D of the social  
12 security act (42 U.S.C. et seq.);

13 (e) The department of social and health services acting to  
14 investigate benefits fraud;

15 (f) The internal revenue service acting to investigate or collect  
16 delinquent taxes or unpaid court orders or to fulfill any of its other  
17 statutory responsibilities;

18 (g) The use of credit information for the purposes of prescreening  
19 as provided for by the federal fair credit reporting act;

20 (h) Any person or entity administering a credit file monitoring  
21 subscription service to which the consumer has subscribed; and

22 (i) Any person or entity for the purpose of providing a consumer  
23 with a copy of his or her credit report upon the consumer's request.

24 (12) This section and sections 3 through 8 of this act, do not  
25 prevent a consumer credit reporting agency from charging a fee of no  
26 more than ten dollars to a consumer for each freeze, removal of the  
27 freeze, or temporary lift of the freeze for a period of time, except  
28 that a consumer credit reporting agency may not charge a fee to a  
29 victim of identity theft, as defined in RCW 9.35.005(5), who has  
30 submitted a valid police report.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.182 RCW  
32 to read as follows:

33 If a security freeze is in place, a consumer credit reporting  
34 agency may not change any of the following official information in a  
35 consumer credit report without sending a written confirmation of the  
36 change to the consumer within thirty days of the change being posted to  
37 the consumer's file: Name, date of birth, social security number, and

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

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.182 RCW  
7 to read as follows:

8 Sections 2 and 3 of this act do not apply to a consumer credit  
9 reporting agency that acts only as a reseller of credit information by  
10 assembling and merging information contained in the data base of  
11 another consumer credit reporting agency or multiple consumer credit  
12 reporting agencies, and does not maintain a permanent data base of  
13 credit information from which new consumer credit reports are produced.  
14 The consumer credit reporting agency that receives the request for a  
15 security freeze must forward the request to each of the other major  
16 credit reporting agencies within five business days. Each consumer  
17 credit reporting agency must honor any security freeze placed on a  
18 consumer credit report by another consumer credit reporting agency.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.182 RCW  
20 to read as follows:

21 The following entities are not required to place a security freeze  
22 in a credit report under section 2 of this act:

23 (1) A check services or fraud prevention services company, which  
24 issues reports on incidents of fraud or authorizations for the purpose  
25 of approving or processing negotiable instruments, electronic funds  
26 transfers, or similar methods of payments; and

27 (2) A deposit account information service company, which issues  
28 reports regarding account closures due to fraud, substantial  
29 overdrafts, ATM abuse, or similar negative information regarding a  
30 consumer, to inquiring banks or other financial institutions for use  
31 only in reviewing a consumer request for a deposit account at the  
32 inquiring bank or financial institution.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.182 RCW  
34 to read as follows:

35 A consumer may elect that his or her name be removed from any list



1 that a consumer credit reporting agency furnishes for credit card  
2 solicitations, by notifying the consumer credit reporting agency, by  
3 telephone or in writing, under the notification system maintained by  
4 the consumer credit reporting agency. The election is effective for a  
5 minimum of two years, unless otherwise specified by the consumer.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.182 RCW  
7 to read as follows:

8 A consumer credit reporting agency may furnish to a governmental  
9 agency a consumer's name, address, former address, places of  
10 employment, or former places of employment.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.182 RCW  
12 to read as follows:

13 A consumer credit reporting agency that maintains a website on the  
14 internet, for use by consumers, shall make available information for  
15 consumers regarding how to implement a credit security freeze. The  
16 information shall be prominently displayed and easily accessible, and  
17 shall include, at a minimum, a definition of a security freeze, how to  
18 obtain and utilize one, costs involved, and a toll-free telephone  
19 number for more information.

20 NEW SECTION. **Sec. 9.** A new section is added to chapter 19.182 RCW  
21 to read as follows:

22 Credit reporting agencies shall provide data to the attorney  
23 general on an annual basis regarding the number of Washington state  
24 consumers who utilize a security freeze. The attorney general must  
25 make this data available to the legislature and the public upon  
26 request, in a manner selected by the attorney general.

27 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 immediately.

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