
SUBSTITUTE HOUSE BILL 2384

State of Washington 65th Legislature 2018 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Hudgins, Valdez, Macri, Ormsby, Pollet, and Appleton)

READ FIRST TIME 01/23/18.

1 AN ACT Relating to consumer reporting agency security freeze
2 fees; amending RCW 19.182.170 and 19.182.230; and creating a new
3 section.

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

5 **Sec. 1.** RCW 19.182.170 and 2007 c 499 s 1 are each amended to
6 read as follows:

7 (1) A consumer, who is a resident of this state, may elect to
8 place a security freeze on his or her credit report by making a
9 request in writing by certified mail to a consumer reporting agency.
10 "Security freeze" means a prohibition, consistent with this section,
11 on a consumer reporting agency's furnishing of a consumer's credit
12 report to a third party intending to use the credit report to
13 determine the consumer's eligibility for credit. If a security freeze
14 is in place, information from a consumer's credit report may not be
15 released to a third party without prior express authorization from
16 the consumer. This subsection does not prevent a consumer reporting
17 agency from advising a third party that a security freeze is in
18 effect with respect to the consumer's credit report.

19 (2) For purposes of this section and RCW 19.182.180 through
20 19.182.210:

1 (a) "Victim of identity theft" means a person who has a police
2 report evidencing their claim to be a victim of a violation of RCW
3 9.35.020 and which report will be produced to a consumer reporting
4 agency, upon such consumer reporting agency's request.

5 (b) "Credit report" means a consumer report, as defined in 15
6 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in
7 establishing a consumer's eligibility for credit for personal,
8 family, or household purposes.

9 (c) "Normal business hours" means Sunday through Saturday,
10 between the hours of 6:00 a.m. and 9:30 p.m. Pacific time.

11 (3) A consumer reporting agency shall place a security freeze on
12 a consumer's credit report no later than five business days after
13 receiving a written request from the consumer (~~and payment of the~~
14 ~~fee required by the consumer reporting agency under subsection (13)~~
15 ~~of this section~~)).

16 (4) The consumer reporting agency shall send a written
17 confirmation of the security freeze to the consumer within ten
18 business days and shall provide the consumer with a unique personal
19 identification number or password to be used by the consumer when
20 providing authorization for the release of his or her credit report
21 for a specific party or period of time.

22 (5) If the consumer wishes to allow his or her credit report to
23 be accessed for a specific period of time while a freeze is in place,
24 he or she shall contact the consumer reporting agency, request that
25 the freeze be temporarily lifted, and provide the following:

26 (a) Proper identification, which means that information generally
27 deemed sufficient to identify a person. Only if the consumer is
28 unable to sufficiently identify himself or herself, may a consumer
29 reporting agency require additional information concerning the
30 consumer's employment and personal or family history in order to
31 verify his or her identity;

32 (b) The unique personal identification number or password
33 provided by the consumer reporting agency under subsection (4) of
34 this section; and

35 (c) The proper information regarding the time period for which
36 the report is available to users of the credit report(~~and~~

37 ~~Payment of the fee required by the consumer reporting agency~~
38 ~~under subsection (13) of this section~~)).

1 (6) A consumer reporting agency that receives a request from a
2 consumer to temporarily lift a freeze on a credit report under
3 subsection (5) of this section shall comply with the request within:

4 (a) Three business days of receiving the request by mail; or

5 (b) Fifteen minutes of receiving the request from the consumer
6 through the electronic contact method chosen by the consumer
7 reporting agency in accordance with subsection (8) of this section,
8 if the request:

9 (i) Is received during normal business hours; and

10 (ii) Includes the consumer's proper identification and correct
11 personal identification number or password.

12 (7) A consumer reporting agency is not required to remove a
13 security freeze within the time provided in subsection (6)(b) of this
14 section if:

15 (a) The consumer fails to meet the requirements of subsection (5)
16 of this section; or

17 (b) The consumer reporting agency's ability to remove the
18 security freeze within fifteen minutes is prevented by:

19 (i) An act of God, including fire, earthquakes, hurricanes,
20 storms, or similar natural disasters or phenomena;

21 (ii) Unauthorized or illegal acts by a third party, including
22 terrorism, sabotage, riot, vandalism, labor strikes, or disputes
23 disrupting operations, or similar occurrences;

24 (iii) An interruption in operations, including electrical
25 failure, unanticipated delay in equipment or replacement part
26 delivery, computer hardware or software failures inhibiting response
27 time, or similar disruptions;

28 (iv) Governmental action, including emergency orders or
29 regulations, judicial or law enforcement action, or similar
30 directives;

31 (v) Regularly scheduled maintenance of, or updates to, the
32 consumer reporting agency's systems outside of normal business hours;

33 (vi) Commercially reasonable maintenance of, or repair to, the
34 consumer reporting agency's systems that is unexpected or
35 unscheduled; or

36 (vii) Receipt of a removal request outside of normal business
37 hours.

38 (8) A consumer reporting agency may develop procedures involving
39 the use of telephone, fax, the internet, or other electronic media to
40 receive and process a request from a consumer to temporarily lift a

1 freeze on a credit report under subsection (5) of this section in an
2 expedited manner.

3 (9) A consumer reporting agency shall remove or temporarily lift
4 a freeze placed on a consumer's credit report only in the following
5 cases:

6 (a) Upon consumer request, under subsection (5) or (12) of this
7 section; or

8 (b) When the consumer's credit report was frozen due to a
9 material misrepresentation of fact by the consumer. When a consumer
10 reporting agency intends to remove a freeze upon a consumer's credit
11 report under this subsection, the consumer reporting agency shall
12 notify the consumer in writing prior to removing the freeze on the
13 consumer's credit report.

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

20 (11) When a consumer requests a security freeze, the consumer
21 reporting agency shall disclose the process of placing and
22 temporarily lifting a freeze, and the process for allowing access to
23 information from the consumer's credit report for a specific period
24 of time while the freeze is in place.

25 (12) A security freeze remains in place until the consumer
26 requests that the security freeze be removed. A consumer reporting
27 agency shall remove a security freeze within three business days of
28 receiving a request for removal from the consumer, who provides all
29 of the following:

30 (a) Proper identification, as defined in subsection (5)(a) of
31 this section; and

32 (b) The unique personal identification number or password
33 provided by the consumer reporting agency under subsection (4) of
34 this section(~~;~~ ~~and~~

35 ~~(c) Payment of the fee required by the consumer reporting agency~~
36 ~~under subsection (13) of this section)).~~

37 ~~(13)((a) Except as provided in (b) of this subsection, a~~
38 ~~consumer reporting agency may charge a fee of no more than ten~~
39 ~~dollars to a consumer for placement of each freeze, temporary lift of~~
40 ~~the freeze, or removal of the freeze.~~

1 ~~(b) A consumer reporting agency may not charge a fee to place a~~
2 ~~security freeze for a victim of identity theft or for a consumer, who~~
3 ~~is sixty five years old or older.))~~ A consumer reporting agency may
4 not impose a charge on a consumer for a request to place, temporarily
5 lift, or remove a freeze.

6 (14) This section does not apply to the use of a consumer credit
7 report by any of the following:

8 (a) A person or entity, or a subsidiary, affiliate, or agent of
9 that person or entity, or an assignee of a financial obligation owing
10 by the consumer to that person or entity, or a prospective assignee
11 of a financial obligation owing by the consumer to that person or
12 entity in conjunction with the proposed purchase of the financial
13 obligation, with which the consumer has or had prior to assignment an
14 account or contract, including a demand deposit account, or to whom
15 the consumer issued a negotiable instrument, for the purposes of
16 reviewing the account or collecting the financial obligation owing
17 for the account, contract, or negotiable instrument. For purposes of
18 this subsection, "reviewing the account" includes activities related
19 to account maintenance, monitoring, credit line increases, and
20 account upgrades and enhancements;

21 (b) Any federal, state, or local entity, including a law
22 enforcement agency, court, or their agents or assigns;

23 (c) Any person acting under a court order, warrant, or subpoena;

24 (d) A child support agency acting under Title IV-D of the social
25 security act (42 U.S.C. Sec. 651 et seq.);

26 (e) The department of social and health services acting to
27 fulfill any of its statutory responsibilities;

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

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

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

36 (i) Any person or entity for the purpose of providing a consumer
37 with a copy of his or her credit report upon the consumer's request;
38 and

39 (j) A mortgage broker or loan originator required to be licensed
40 under chapter 19.146 RCW.

1 (15) Liability may not result to the consumer reporting agency if
2 through inadvertence or mistake the consumer reporting agency
3 releases credit report information to a person or entity purporting
4 to be a mortgage broker or loan originator under subsection (14) of
5 this section that is, in fact, not a mortgage broker or loan
6 originator.

7 (16) The consumer's request for a security freeze does not
8 prohibit the consumer reporting agency from disclosing the consumer's
9 credit report for other than credit-related purposes.

10 (17) A violation of subsection (6) of this section does not
11 provide a private cause of action under RCW 19.86.090. A violation of
12 subsection (6) of this section shall be enforced exclusively by the
13 attorney general. A violation of subsection (6) of this section is
14 subject to all other remedies and penalties available under this
15 chapter.

16 **Sec. 2.** RCW 19.182.230 and 2016 c 135 s 2 are each amended to
17 read as follows:

18 (1) A consumer reporting agency shall place a security freeze for
19 a protected consumer if:

20 (a) The consumer reporting agency receives a request from the
21 protected consumer's representative for the placement of the security
22 freeze under this section; and

23 (b) The protected consumer's representative:

24 (i) Submits the request to the consumer reporting agency at the
25 address or other point of contact and in the manner specified by the
26 consumer reporting agency;

27 (ii) Provides to the consumer reporting agency sufficient proof
28 of identification of the protected consumer and the representative;
29 and

30 (iii) Provides to the consumer reporting agency sufficient proof
31 of authority to act on behalf of the protected consumer(~~and~~

32 ~~(iv) Pays to the consumer reporting agency a fee as provided in~~
33 ~~this section)).~~

34 (2) If a consumer reporting agency does not have a file
35 pertaining to a protected consumer when the consumer reporting agency
36 receives a request under subsection (1)(a) of this section, the
37 consumer reporting agency shall create a record for the protected
38 consumer.

1 (3) Within thirty days after receiving a request that meets the
2 requirements of subsection (1) of this section, a consumer reporting
3 agency shall place a security freeze for the protected consumer.

4 (4) Unless a security freeze for a protected consumer is removed
5 in accordance with subsection (6) or (9) of this section, a consumer
6 reporting agency may not release the protected consumer's consumer
7 report, any information derived from the protected consumer's
8 consumer report, or any record created for the protected consumer.

9 (5) A security freeze for a protected consumer placed in
10 accordance with this section shall remain in effect until:

11 (a) The protected consumer or the protected consumer's
12 representative requests the consumer reporting agency to remove the
13 security freeze in accordance with subsection (6) of this section; or

14 (b) The security freeze is removed in accordance with subsection
15 (9) of this section.

16 (6) If a protected consumer or a protected consumer's
17 representative wishes to remove a security freeze for the protected
18 consumer, the protected consumer or the protected consumer's
19 representative shall:

20 (a) Submit a request for the removal of the security freeze to
21 the consumer reporting agency at the address or other point of
22 contact and in the manner specified by the consumer reporting agency;

23 (b) Provide to the consumer reporting agency:

24 (i) In the case of a request by the protected consumer:

25 (A) Proof that the sufficient proof of authority for the
26 protected consumer's representative to act on behalf of the protected
27 consumer is no longer valid; and

28 (B) Sufficient proof of identification of the protected consumer;

29 and

30 (ii) In the case of a request by the representative of a
31 protected consumer:

32 (A) Sufficient proof of identification of the protected consumer
33 and the representative; and

34 (B) Sufficient proof of authority to act on behalf of the
35 protected consumer(~~(; and~~

36 ~~(iii) In any case, pay to the consumer reporting agency a fee as~~
37 ~~provided in this section)).~~

38 (7) Within thirty days after receiving a request that meets the
39 requirements of subsection (6) of this section, the consumer

1 reporting agency shall remove the security freeze for the protected
2 consumer.

3 ~~(8)((a) Except as provided in (b) of this subsection,))~~ A
4 consumer reporting agency may not charge a fee for any service
5 performed under this section.

6 ~~((b) A consumer reporting agency may charge a reasonable fee,
7 not exceeding ten dollars, for each placement or removal of a
8 security freeze for a protected consumer.~~

9 ~~(c) A consumer reporting agency may not charge any fee under this
10 section if:~~

11 ~~(i) The protected consumer's representative:~~

12 ~~(A) Has obtained a report from a federal, state, county, or local
13 law enforcement alleging identity theft in violation of RCW 9.35.020
14 against the protected consumer; and~~

15 ~~(B) Provides a copy of the report to the consumer reporting
16 agency; or~~

17 ~~(ii)(A) A request for the placement or removal of a security
18 freeze is for a protected consumer who is under the age of sixteen
19 years at the time of the request; and~~

20 ~~(B) The consumer reporting agency has a consumer report
21 pertaining to the protected consumer.)~~

22 (9) A consumer reporting agency may remove a security freeze for
23 a protected consumer or delete a record of a protected consumer if
24 the security freeze was placed or the record was created based on a
25 material misrepresentation of fact by the protected consumer or the
26 protected consumer's representative.

27 (10) A violation of this section is enforced in accordance with
28 RCW 19.182.170(17).

29 (11) This section does not apply to:

30 (a) Persons or transactions described in RCW 19.182.170(14)(b),
31 (c), (d), (e), (f), (h), or (i);

32 (b) Persons or transactions described in RCW 19.182.190;

33 (c) Persons or transactions described in RCW 19.182.200; or

34 (d) A person or entity that maintains, or a database used solely
35 for, the following:

36 (i) Criminal record information;

37 (ii) Personal loss history information;

38 (iii) Fraud prevention or detection;

39 (iv) Employment screening; or

40 (v) Tenant screening.

1 NEW SECTION. **Sec. 3.** The office of cybersecurity, the office of
2 privacy and data protection, and the attorney general's office must
3 work with stakeholders to evaluate the impact to consumers and the
4 consumer reporting agencies regarding the modifications in this act.
5 The report must include trends in data breaches including the
6 frequency and nature of security breaches, best practices for
7 preventing cybersecurity attacks, and identity theft mitigation
8 protocols recommended by the federal trade commission, the consumer
9 financial protection bureau, and other relevant federal or state
10 agencies. The report must be submitted to the house of
11 representatives committee on business and financial services and the
12 senate committee on financial institutions and insurance by December
13 1, 2020.

--- END ---