

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6018

65th Legislature
2018 Regular Session

Passed by the Senate January 18, 2018
Yeas 46 Nays 2

President of the Senate

Passed by the House February 22, 2018
Yeas 81 Nays 15

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6018** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6018

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By Senators Mullet, Carlyle, Palumbo, Frockt, Rolfes, Hunt, Fain, Keiser, Van De Wege, Hasegawa, Nelson, Pedersen, and Kuderer

Prefiled 12/11/17. Read first time 01/08/18. Referred to Committee on Financial Institutions & Insurance.

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

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

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

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

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

20 (a) "Victim of identity theft" means a person who has a police
21 report evidencing their claim to be a victim of a violation of RCW

1 9.35.020 and which report will be produced to a consumer reporting
2 agency, upon such consumer reporting agency's request.

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

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

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

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

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

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

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

33 (c) The proper information regarding the time period for which
34 the report is available to users of the credit report((; and

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

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

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

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

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

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

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

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

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

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

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

20 (iii) An interruption in operations, including electrical
21 failure, unanticipated delay in equipment or replacement part
22 delivery, computer hardware or software failures inhibiting response
23 time, or similar disruptions;

24 (iv) Governmental action, including emergency orders or
25 regulations, judicial or law enforcement action, or similar
26 directives;

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

29 (vi) Commercially reasonable maintenance of, or repair to, the
30 consumer reporting agency's systems that is unexpected or
31 unscheduled; or

32 (vii) Receipt of a removal request outside of normal business
33 hours.

34 (8) A consumer reporting agency may develop procedures involving
35 the use of telephone, fax, the internet, or other electronic media to
36 receive and process a request from a consumer to temporarily lift a
37 freeze on a credit report under subsection (5) of this section in an
38 expedited manner.

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

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

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

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

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

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

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

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

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

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

39 ~~(b))~~ A consumer reporting agency may not charge a fee for any
40 service under this section including, but not limited to ((place)),

1 placing a security freeze ((for a victim of identity theft or for a
2 consumer, who is sixty five years old or older)), assigning a unique
3 personal identification number or password, temporarily lifting a
4 security freeze, or removing a security freeze.

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

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

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

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

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

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

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

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

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

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

38 (j) A mortgage broker or loan originator required to be licensed
39 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's general 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, identity theft mitigation services
8 available to consumers, and identity theft mitigation protocols
9 recommended by the federal trade commission, the consumer financial
10 protection bureau, and other relevant federal or state agencies. The
11 report must be submitted to the house of representatives committee on
12 business and financial services and the senate committee on financial
13 institutions and insurance by December 1, 2020.

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