

Representative James A. Dunnigan proposes the following substitute bill:

CONSUMER CREDIT PROTECTION

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill allows a consumer to place a security freeze on the consumer's credit report.

Highlighted Provisions:

This bill:

- ▶ enacts the Consumer Credit Protection Act;
- ▶ defines terms;
- ▶ allows a consumer to place a security freeze on the consumer's credit report;
- ▶ provides the method by which a consumer may:
 - place a security freeze on the consumer's credit report;
 - remove, permanently or temporarily, a security freeze; or
 - authorize release of the consumer's credit report to a specific person;
- ▶ prohibits a consumer reporting agency from furnishing a consumer's credit report if the credit report is subject to a security freeze;
- ▶ provides exceptions to the prohibition on a consumer reporting agency's furnishing of a credit report subject to a security freeze;
- ▶ provides deadlines for a consumer reporting agency's response to a consumer's request for a security freeze;
- ▶ requires a consumer reporting agency to make certain notifications to the consumer;
- ▶ allows a consumer reporting agency to charge a reasonable fee for services related



26 to the placement and removal of a security freeze;

27 ▶ provides exemptions for certain uses of credit reports; and

28 ▶ allows a civil action by a consumer damaged by a consumer reporting agency's

29 noncompliance with the provisions of the Consumer Credit Protection Act.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill takes effect on May 1, 2006.

34 **Utah Code Sections Affected:**

35 ENACTS:

- 36 **13-41-101**, Utah Code Annotated 1953
- 37 **13-41-102**, Utah Code Annotated 1953
- 38 **13-41-201**, Utah Code Annotated 1953
- 39 **13-41-202**, Utah Code Annotated 1953
- 40 **13-41-203**, Utah Code Annotated 1953
- 41 **13-41-204**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **13-41-101** is enacted to read:

45 **CHAPTER 41. CONSUMER CREDIT PROTECTION ACT**

46 **Part 1. General Provisions**

47 **13-41-101. Title.**

48 This chapter is known as the "Consumer Credit Protection Act."

49 Section 2. Section **13-41-102** is enacted to read:

50 **13-41-102. Definitions.**

51 As used in this chapter:

52 (1) "Consumer" means a natural person residing in this state.

53 (2) "Consumer reporting agency" means a person that, for a monetary fee, dues, or on a

54 cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling

55 or evaluating consumer credit information or other information about a consumer for the

56 purpose of furnishing a credit report to a third person.

57 (3) "Credit report" means a consumer report as defined in 15 U.S.C. Sec. 1681a,
58 except that "credit report" does not include:

- 59 (a) a motor vehicle record obtained from a state or an agency of a state; or
- 60 (b) any information regarding an applicant's or insured's insurance claim history.

61 (4) (a) "Proper identification" means that information that is generally deemed
62 sufficient to identify a person.:

63 (b) "Proper identification" may not be interpreted by a consumer reporting agency to
64 include additional information about a consumer's employment, personal, or family history
65 unless the information described in Subsection (4)(a) does not reasonably identify the
66 consumer.

67 (5) "Security freeze" means a prohibition, meeting the requirements of Section
68 13-41-201, on a consumer reporting agency's furnishing of a consumer's credit report.

69 Section 3. Section **13-41-201** is enacted to read:

70 **Part 2. Security Freeze**

71 **13-41-201. Consumer reports -- Security freeze.**

72 (1) Except as provided in Subsection (3), a consumer may request that a security freeze
73 be placed on that consumer's credit report at no charge to the consumer if the consumer:

- 74 (a) requests that the consumer reporting agency place a security freeze on the
75 consumer's credit report:
 - 76 (i) in writing by certified mail; or
 - 77 (ii) by other reliable means that may be developed using telephone, fax, the Internet, or
78 other electronic media;

79 (b) provides the consumer reporting agency with a copy of a police report; and

80 (c) provides proper identification to the consumer reporting agency.

81 (2) (a) Except as provided in Subsection (3), a consumer reporting agency may not
82 furnish a credit report to any person if the consumer who is the subject of the credit report
83 requests a security freeze be placed on the credit report under Subsection (1).

84 (b) A consumer reporting agency shall comply with a consumer's request under
85 Subsection (1) within three business days after the day on which the request is received.

86 (c) Within ten business days of the day on which the consumer reporting agency places
87 a security freeze on the consumer's credit report, a consumer reporting agency shall send to the

88 consumer:

89 (i) written confirmation of the consumer's request under Subsection (1); and

90 (ii) information explaining how the consumer may:

91 (A) remove the security freeze under Subsection (4)(a)(i);

92 (B) temporarily remove the security freeze under Subsection (4)(a)(ii); and

93 (C) authorize a consumer reporting agency to furnish the consumer's credit report to a
94 specific person under Subsection (4)(a)(iii).

95 (d) Notwithstanding Subsection (1), in response to a request for a consumer's credit
96 report that is subject to a security freeze, the consumer reporting agency may inform the
97 requestor that the consumer's credit report is subject to a security freeze.

98 (e) A consumer reporting agency may remove, temporarily or permanently, a security
99 freeze from a consumer's credit report only in the following cases:

100 (i) upon request by the consumer under Subsection (4); or

101 (ii) if the security freeze is placed on the consumer's credit report based on a material
102 misrepresentation of fact by the consumer.

103 (f) (i) A material misrepresentation of fact under Subsection (2)(e)(ii) is a
104 misrepresentation that the consumer makes in a request for a credit freeze in an attempt to
105 defraud the consumer reporting agency.

106 (ii) Before a consumer reporting agency may remove a security freeze from a
107 consumer's credit report under Subsection (2)(e)(ii), the consumer reporting agency shall notify
108 the consumer in writing that the security freeze will be removed.

109 (3) Notwithstanding Subsections (1) and (2), a consumer reporting agency may furnish
110 a credit report if the credit report:

111 (a) is furnished to a person with whom the consumer who is the subject of the credit
112 report has a debtor-creditor relationship, or to that person's subsidiary, affiliate, agent, or
113 prospective assignee, for the purpose of:

114 (i) reviewing an account, including for:

115 (A) account maintenance;

116 (B) account monitoring; or

117 (C) a credit-line increase; or

118 (ii) collecting a financial obligation owing;

- 119 (b) is requested by the consumer who is the subject of the report;
120 (c) is furnished to a subsidiary, affiliate, agent, assignee, or prospective assignee of a
121 person receiving a consumer's credit report under Section (4)(a)(iii);
122 (d) is furnished pursuant to a court order;
123 (e) is furnished to a federal, state, or local governmental entity, including a law
124 enforcement agency;
125 (f) is furnished to any authorized person for the purpose of investigating or collecting:
126 (i) delinquent taxes;
127 (ii) an unpaid judgment;
128 (iii) an unpaid assessment under:
129 (A) Title 11, Chapter 27, Utah Refunding Bond Act;
130 (B) Title 17A, Special Districts; or
131 (C) Title 54, Chapter 8, Utah Underground Conversion of Utilities Law; or
132 (iv) unpaid interest or penalties;
133 (g) is furnished to any person for prescreening under 15 U.S.C. Sec. 1681b(c);
134 (h) is furnished to a credit monitoring service to which the consumer subscribes;
135 (i) is furnished during a period in which the consumer has temporarily removed the
136 security freeze; or
137 (j) is furnished to a person specifically authorized to receive the credit report under
138 Subsection (4)(a)(iii).
139 (4) (a) Subject to the requirements of Subsection (4)(b), a consumer may:
140 (i) remove the security freeze on that consumer's credit report by:
141 (A) requesting that the consumer reporting agency remove the security freeze; and
142 (B) paying the fee allowed by Subsection (5);
143 (ii) temporarily remove the security freeze on that consumer's credit report by:
144 (A) requesting that the consumer reporting agency remove the security freeze for a
145 specific period of time; and
146 (B) paying the fee allowed by Subsection (5); or
147 (iii) authorize a consumer reporting agency to furnish the consumer's credit report to a
148 specific person by:
149 (A) requesting that the consumer reporting agency furnish the credit report to a specific

150 person if that person requests the credit report; and

151 (B) paying the fee allowed by Subsection (5).

152 (b) Any request or authorization under Subsection (4)(a)(i), (ii), or (iii) shall be
153 accompanied by a personal identification number provided to the consumer by the consumer
154 reporting agency.

155 (c) A consumer reporting agency shall process a request or authorization under
156 Subsection (4)(a)(i), (ii), or (iii) within three business days of the day on which the consumer
157 reporting agency receives the request.

158 (5) A consumer reporting agency may charge a consumer a fee not to exceed \$10 to:

159 (a) remove a security freeze under Subsection (4)(a)(i) or (ii); or

160 (b) allow the consumer to authorize the release of the consumer's credit report to a
161 specific individual or entity under Subsection (4)(a)(iii).

162 Section 4. Section **13-41-202** is enacted to read:

163 **13-41-202. Exemptions.**

164 This chapter does not apply to:

165 (1) (a) except as provided in Subsection (1)(b), a consumer reporting agency that acts
166 only as a reseller of credit information that:

167 (i) assembles and merges information contained in the database of another consumer
168 reporting agency; and

169 (ii) does not maintain a permanent database of credit information from which new
170 consumer credit reports are produced

171 (b) a consumer reporting agency that acts only as a reseller of credit information shall
172 honor a security freeze placed on a consumer credit report by another consumer reporting
173 agency;

174 (2) a check service company that issues authorization for the purpose of approving or
175 processing negotiable instruments, electronic funds transfers, or similar methods of payment;

176 (3) a fraud prevention service company that issues reports concerning incidents of
177 fraud;

178 (4) A deposit account information service company that issues reports to inquiring
179 banks or other financial institutions for use in reviewing a consumer's request for a demand
180 deposit account at the inquiring bank or financial institution containing information concerning

181 the requesting consumer's:

182 (a) account closures based on fraud;

183 (b) substantial overdrafts;

184 (c) abuse of automatic teller machines; or

185 (d) other similar negative information;

186 (5) a person administering a credit file monitoring subscription service to which the

187 consumer subscribes; or

188 (6) a person requesting the consumer's credit report for use by an insurance business to

189 set a rate or underwrite for insurance purposes, as those terms are defined in Section

190 31A-1-301.

191 Section 5. Section **13-41-203** is enacted to read:

192 **13-41-203. Effect of security freeze on third-party.**

193 If a person who requests a consumer's credit report in connection with an application

194 for credit or other purpose is notified that a security freeze is in place on that credit report, the

195 requesting person may treat the consumer's application as incomplete.

196 Section 6. Section **13-41-204** is enacted to read:

197 **13-41-204. Violation of security freeze -- Action by consumer.**

198 If a consumer reporting agency violates Section 13-41-201, a consumer may bring a

199 civil action to recover actual damages sustained by the consumer because of the violation.

200 Section 7. **Effective date.**

201 This bill takes effect on May 1, 2006.