

Senator Carlene M. Walker 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 ~~§~~→ [July] 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 ~~§~~ ~~→~~ [a form of positive identification issued by a
 62 governmental entity that:

63 ~~—— (a) contains:~~

64 ~~—— (i) a numerical identifier; and~~

65 ~~—— (ii) a photograph of the person identified; and~~

66 ~~—— (b) may include:~~

67 ~~—— (i) a state identification card;~~

68 ~~—— (ii) a state driver license;~~

69 ~~—— (iii) a United States military identification card; or~~

70 ~~—— (iv) a United States passport.]~~ that information that is generally deemed sufficient to
 70a identify a person.

70b (b) "Proper identification" may not be interpreted by a consumer reporting agency to
 70c include additional information about a consumer's employment, personal, or family history
 70d unless the information described in Subsection (4)(a) does not reasonably identify the
 70e consumer. ~~←~~ ~~§~~

71 (5) "Security freeze" means a prohibition, meeting the requirements of Section
 72 13-41-201, on a consumer reporting agency's furnishing of a consumer's credit report.

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

74 **Part 2. Security Freeze**

75 **13-41-201. Consumer reports -- Security freeze.**

76 (1) Except as provided in Subsection (3), a consumer may request that a security freeze
 77 be placed on that consumer's credit report if the consumer:

78 (a) requests that the consumer reporting agency place a security freeze on the
 79 consumer's credit report:

80 (i) in writing by certified mail; or

81 (ii) by other reliable means ~~§~~ ~~→~~ that may be developed ~~←~~ ~~§~~ using telephone, fax, the
 81a Internet, or other electronic media;

82 (b) pays a reasonable fee to the consumer reporting agency for placing a security
 83 freeze; and

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

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

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

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

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

94 (ii) information explaining how the consumer may:

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

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

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

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

101a **§→ (e) A consumer reporting agency may remove, temporarily or permanently, a security**
 101b **freeze from a consumer's credit report only in the following cases:**

101c **(i) upon request by the consumer under Subsection (4); or**

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

101f **(f) (i) A material misrepresentation of fact under Subsection (2)(e)(ii) is a**
 101g **misrepresentation that the consumer makes in a request for a credit freeze in an attempt to**
 101h **defraud the consumer reporting agency.**

101i **(ii) Before a consumer reporting agency may remove a security freeze from a**
 101j **consumer's credit report under Subsection (2)(e)(ii), the consumer reporting agency shall**
 101k **notify the consumer in writing that the security freeze will be removed. ←§**

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

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

107 (i) reviewing an account, including for:

108 (A) account maintenance;

109 (B) account monitoring; or

110 (C) a credit-line increase; §→ or ←§

111 (ii) collecting a financial obligation owing; §→ [or

112 ~~(iii) extending credit to the consumer;]~~ ←§

113 (b) is requested by the consumer who is the subject of the report;

114 (c) is furnished to a subsidiary, affiliate, agent, assignee, or prospective assignee of a
115 person receiving a consumer's credit report under Section (4)(a)(iii);

116 (d) is furnished pursuant to a court order;

117 (e) is furnished to a federal, state, or local governmental entity, including a law
118 enforcement agency;

119 (f) is furnished to any authorized person for the purpose of investigating or collecting:
120 (i) delinquent taxes;
121 (ii) an unpaid judgment;
122 (iii) an unpaid assessment under:
123 (A) Title 11, Chapter 27, Utah Refunding Bond Act;
124 (B) Title 17A, Special Districts; or
125 (C) Title 54, Chapter 8, Utah Underground Conversion of Utilities Law; or
126 (iv) unpaid interest or penalties;
127 (g) is furnished to any person for prescreening under 15 U.S.C. Sec. 1681b(c);
128 (h) is furnished to a credit monitoring service to which the consumer subscribes;
129 (i) is furnished during a period in which the consumer has temporarily removed the
130 security freeze; or
131 (j) is furnished to a person specifically authorized to receive the credit report under
132 Subsection (4)(a)(iii).
133 (4) (a) Subject to the requirements of Subsection (4)(b), a consumer may:
134 (i) remove the security freeze on that consumer's credit report by requesting that the
135 consumer reporting agency remove the security freeze;
136 (ii) temporarily remove the security freeze on that consumer's credit report by:
137 (A) requesting that the consumer reporting agency remove the security freeze for a
138 specific period of time; and
139 (B) paying the fee allowed by Subsection (5); or
140 (iii) authorize a consumer reporting agency to furnish the consumer's credit report to a
141 specific person by:
142 (A) requesting that the consumer reporting agency furnish the credit report to a specific
143 person if that person request the credit report; and
144 (B) paying the fee allowed by Subsection (5).
145 (b) Any request or authorization under Subsection (4)(a)(i), (ii), or (iii) shall be made
146 in writing by certified mail with proper identification accompanied by a personal identification
147 number provided to the consumer by the consumer reporting agency.
148 (c) A consumer reporting agency shall process a request or authorization under
149 Subsection (4)(a)(i), (ii), or (iii) within three business days of the day on which the consumer

150 reporting agency receives the request.

151 (5) A consumer reporting agency may charge a consumer a reasonable fee to:

152 (a) furnish a credit report under Subsection (3)(b), except as provided for in any other
153 provision of law;

154 (b) temporarily remove a security freeze under Subsection (4)(a)(ii);

155 (c) allow the consumer to authorize the release of the consumer's credit report to a
156 specific individual or entity under Subsection (4)(a)(iii); or

157 (d) allow a consumer to place a security freeze under Subsection (1), except that a
158 consumer reporting agency may not charge a fee for placing a security freeze if the person on
159 whose credit report the security freeze is to be placed provides the consumer reporting agency
160 with a copy of a police report indicating that the person is a victim of identity fraud.

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

162 **13-41-202. Exemptions.**

163 This chapter does not apply to:

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

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

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

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

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

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

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

- 181 (a) account closures based on fraud;
- 182 (b) substantial overdrafts;
- 183 (c) abuse of automatic teller machines; or
- 184 (d) other similar negative information;
- 185 (5) a person administering a credit file monitoring subscription service to which the
- 186 consumer subscribes; or
- 187 (6) a person requesting the consumer's credit report for use by an insurance business to
- 188 set a rate or underwrite for insurance purposes, as those terms are defined in Section
- 189 31A-1-301.

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

191 **13-41-203. Effect of security freeze on third-party.**

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

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

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

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

196 **13-41-204. Violation of security freeze -- Action by consumer.**

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

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

199 Section 7. **Effective date.**

200 This bill takes effect on ~~§~~ → **July** ~~May~~ ← ~~§~~ 1, 2006.