

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 credit 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 credit reporting agency's furnishing of a credit report subject to a security freeze;
- ▶ provides deadlines for a credit reporting agency's response to a consumer's request for a security freeze;
- ▶ requires a credit reporting agency to make certain notifications to the consumer;
- ▶ allows a credit reporting agency to charge a reasonable fee for services related to the placement and removal of a security freeze; and
- ▶ allows a civil action by a consumer damaged by a credit reporting agency's



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

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill takes effect on July 1, 2006.

33 **Utah Code Sections Affected:**

34 ENACTS:

35 **13-41-101**, Utah Code Annotated 1953

36 **13-41-102**, Utah Code Annotated 1953

37 **13-41-201**, Utah Code Annotated 1953

38 **13-41-202**, Utah Code Annotated 1953

39 **13-41-203**, Utah Code Annotated 1953



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

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

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

44 **Part 1. General Provisions**

45 **13-41-101. Title.**

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

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

48 **13-41-102. Definitions.**

49 As used in this chapter:

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

51 (2) "Credit report" means a consumer report as defined in 15 U.S.C. Sec. 1681a.

52 (3) "Credit reporting agency" means a person that, for a monetary fee, dues, or on a
53 cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling
54 or evaluating consumer credit information or other information about a consumer for the
55 purpose of furnishing a credit report to a third person.

56 (4) "Proper identification" means a form of positive identification issued by a
57 governmental entity that:

58 (a) contains:

- 59 (i) a numerical identifier; and
- 60 (ii) a photograph of the person identified; and

61 (b) may include:

- 62 (i) a state identification card;
- 63 (ii) a state driver license;
- 64 (iii) a United States military identification card; or
- 65 (iv) a United States passport.

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

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

69 **Part 2. Security Freeze**

70 **13-41-201. Consumer reports -- Security freeze.**

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

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

- 75 (i) in writing by certified mail or personal delivery; or
- 76 (ii) by other reliable means, including by internet, telephone, or facsimile;
- 77 (b) pays a reasonable fee to the credit reporting agency for placing a security freeze;

78 and

79 (c) provides proper identification to the credit reporting agency.

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

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

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

- 88 (i) written confirmation of the consumer's request under Subsection (1); and
- 89 (ii) information explaining how the consumer may:

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

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

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

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

97 (3) Notwithstanding Subsections (1) and (2), a credit reporting agency may furnish a
98 credit report if the credit report:

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

102 (i) reviewing an account, including for:

103 (A) account maintenance;

104 (B) account monitoring; or

105 (C) a credit-line increase;

106 (ii) collecting a financial obligation owing; or

107 (iii) extending credit to the consumer;

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

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

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

112 (e) is furnished to the Office of Recovery Services for use in an investigation of a child
113 support matter pursuant to:

114 (i) the Social Security Act, 42 U.S.C. et seq.; or

115 (ii) Subsection 62A-11-104(2);

116 (f) is furnished to a person empowered under Section 26-20-13 to investigate Medicaid
117 fraud for purposes of investigating Medicaid fraud;

118 (g) is furnished to any authorized person for the purpose of investigating or collecting:

119 (i) delinquent taxes;

120 (ii) an unpaid judgment;

121 (iii) an unpaid assessment under:
122 (A) Title 11, Chapter 27, Utah Refunding Bond Act;
123 (B) Title 17A, Special Districts; or
124 (C) Title 54, Chapter 8, Utah Underground Conversion of Utilities Law; or
125 (iv) unpaid interest or penalties;
126 (h) is furnished to any person for prescreening under 15 U.S.C. Sec. 1681b(c);
127 (i) is furnished to a credit monitoring service to which the consumer subscribes;
128 (j) is furnished during a period in which the consumer has temporarily removed the
129 security freeze; or
130 (k) is furnished to a person specifically authorized to receive the credit report under
131 Subsection (4)(c).
132 (4) (a) Subject to the requirements of Subsection (4)(b), a consumer may:
133 (i) remove the security freeze on that consumer's credit report by:
134 (A) requesting the credit reporting agency to remove the security freeze; and
135 (B) paying the fee allowed by Subsection (5);
136 (ii) temporarily remove the security freeze on that consumer's credit report by:
137 (A) requesting the credit reporting agency to remove the security freeze for a specific
138 period of time; and
139 (B) paying the fee allowed by Subsection (5); or
140 (iii) authorize a credit reporting agency to furnish the consumer's credit report to a
141 specific person by:
142 (A) requesting that the credit 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 (i) (A) in writing by certified mail or personal delivery; and
147 (B) with proper identification; or
148 (ii) by other reliable means, including by internet, telephone, or facsimile accompanied
149 by:
150 (A) a personal identification number provided to the consumer by the credit reporting
151 agency; or

- 152 (B) other reliable proof of the consumer's identity.
- 153 (c) A credit reporting agency shall process a request or authorization under Subsection
- 154 (4)(a)(i), (ii), or (iii) within three business days of the day on which the credit reporting agency
- 155 receives the request.
- 156 (5) A credit reporting agency may charge a consumer a reasonable fee to:
- 157 (a) furnish a credit report under Subsection (3)(b), except as provided for in any other
- 158 provision of law;
- 159 (b) remove a security freeze under Subsection (4)(a)(i);
- 160 (c) temporarily remove a security freeze under Subsection (4)(a)(ii); or
- 161 (d) allow the consumer to authorize the release of the consumer's credit report to a
- 162 specific person under Subsection (4)(a)(iii).

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

13-41-202. Effect of security freeze on third-party.

If a person who requests a consumer's credit report in connection with an application for credit or other purpose is notified that a security freeze is in place on that credit report, the requesting person may treat the consumer's application as incomplete.

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

13-41-203. Violation of security freeze -- Action by consumer.

If a credit reporting agency violates Section 13-41-201, a consumer may bring a civil action to recover actual damages sustained by the consumer because of the violation.

Section 6. **Effective date.**

This bill takes effect on July 1, 2006.

Legislative Review Note
as of 1-10-05 9:12 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel