

CONSUMER CREDIT PROTECTION

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses consumer credit protections.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a consumer to place a security freeze on the consumer's credit report;
- ▶ outlines the method for placing and removing a security freeze;
- ▶ provides exceptions;
- ▶ prohibits the release of a credit report that is subject to a security freeze, except in certain instances;
- ▶ allows certain fees to be charged in connection with a security freeze;
- ▶ governs changes to a credit report that is subject to a security freeze;
- ▶ prohibits some uses of a consumer's Social Security number; and
- ▶ provides for enforcement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

ENACTS:



- 28 **13-42-101**, Utah Code Annotated 1953
- 29 **13-42-102**, Utah Code Annotated 1953
- 30 **13-42-201**, Utah Code Annotated 1953
- 31 **13-42-202**, Utah Code Annotated 1953
- 32 **13-42-203**, Utah Code Annotated 1953
- 33 **13-42-204**, Utah Code Annotated 1953
- 34 **13-42-205**, Utah Code Annotated 1953
- 35 **13-42-301**, Utah Code Annotated 1953
- 36 **13-42-401**, Utah Code Annotated 1953

37

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

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

40 **CHAPTER 42. CONSUMER CREDIT PROTECTION ACT**

41 **Part 1. General Provisions**

42 **13-42-101. Title.**

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

44 Section 2. Section **13-42-102** is enacted to read:

45 **13-42-102. Definitions.**

46 As used in this chapter:

47 (1) "Consumer" means a natural person.

48 (2) "Consumer reporting agency" means a person who, for fees, dues, or on a
49 cooperative basis, regularly engages in whole or in part in the practice of assembling or
50 evaluating information concerning a consumer's credit or other information for the purpose of
51 furnishing a credit report to another person.

52 (3) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is
53 used or collected in whole or part for the purpose of serving as a factor in establishing a
54 consumer's eligibility for credit for personal, family, or household purposes.

55 (4) "Personal information" means:

56 (a) a person's name, address, or telephone number combined with the person's:

57 (i) Social Security number;

58 (ii) (A) financial account, or credit or debit card, number and;

59 (B) any required security code, access code, or password that would permit access to
60 the person's account;

61 (iii) driver license number or other government-issued identification number;

62 (iv) consumer report;

63 (v) employee number;

64 (vi) faculty or student identification number;

65 (vii) United States Armed Forces serial number; or

66 (viii) genetic or biometric information; or

67 (b) any of the information listed in Subsections (4)(a)(i) through (viii) without the
68 person's name, address, or telephone number if the information is sufficient to allow a person
69 to obtain money, credit, or services through unauthorized use of the information.

70 (5) "Proper identification" means:

71 (a) some form of United States or state government-issued photo identification, such as
72 a driver license or identification card, that establishes a person's identity; or

73 (b) that information generally considered sufficient to identify a person.

74 (6) "Security freeze" means a prohibition, consistent with Section 13-42-201, on a
75 consumer reporting agency's furnishing of a consumer's credit report to a third party intending
76 to use the credit report to determine the consumer's eligibility for credit.

77 Section 3. Section **13-42-201** is enacted to read:

78 **Part 2. Security Freeze**

79 **13-42-201. Security freeze.**

80 (1) A consumer may place a security freeze on the consumer's credit report by making
81 a request to a consumer reporting agency in writing by certified mail.

82 (2) If a security freeze is in place, a consumer reporting agency may not release a
83 consumer's credit report, or information from the credit report, to a third party that intends to
84 use the information to determine a consumer's eligibility for credit without prior authorization
85 from the consumer.

86 (3) (a) Notwithstanding Subsection (2), a consumer reporting agency may
87 communicate to a third party requesting a consumer's credit report that a security freeze is in
88 effect on the consumer's credit report.

89 (b) If a third party requesting a consumer's credit report in connection with the

90 consumer's application for credit is notified of the existence of a security freeze under
91 Subsection (3)(a), the third party may treat the consumer's application as incomplete.

92 (4) Upon receiving a request from a consumer under Subsection (1), the consumer
93 reporting agency shall:

94 (a) place a security freeze on the consumer's credit report within five business days
95 after receiving the consumer's request;

96 (b) send a written confirmation of the security freeze to the consumer within ten
97 business days after placing the security freeze; and

98 (c) provide the consumer with a unique personal identification number or password to
99 be used by the consumer when providing authorizations for removal or temporary removal of
100 the security freeze under Section 13-42-202.

101 (5) A consumer reporting agency may not place a security freeze on a consumer's credit
102 report unless the requesting consumer provides proper identification to the consumer reporting
103 agency.

104 (6) A security freeze placed under this section may be removed only in accordance
105 with Section 13-42-202.

106 Section 4. Section **13-42-202** is enacted to read:

107 **13-42-202. Removal of security freeze -- Requirements and timing.**

108 (1) A consumer reporting agency may only remove a security freeze from a consumer's
109 credit report if:

110 (a) (i) the consumer requests, in writing, through electronic means, or by telephone,
111 that the security freeze be removed; and

112 (ii) the consumer provides proper identification, which may include a personal
113 identification number or password; or

114 (b) the consumer makes a material misrepresentation of fact in connection with the
115 placement of the security freeze.

116 (2) Within ten business days after the day on which a consumer reporting agency
117 removes a security freeze from a consumer's credit report, the consumer reporting agency shall
118 send a written confirmation of the removal of the security freeze to the consumer.

119 (3) A consumer may temporarily remove a security freeze by:

120 (a) making a request for removal in the same manner as any other request for the

121 removal of a security freeze; and
122 (b) specifying the period of time for which the security freeze is to be removed.
123 (4) (a) A consumer reporting agency shall allow a request by the consumer for the
124 temporary removal of a security freeze:
125 (i) in writing; and
126 (ii) by telephone or electronic means.
127 (b) A consumer reporting agency shall remove a security freeze from a consumer's
128 credit report within:
129 (i) three business days after the day on which the consumer's written request to remove
130 the security freeze is received by the consumer reporting agency; or
131 (ii) 15 minutes after the consumer reporting agency receives the consumer's telephonic
132 or electronic request to remove the security freeze.
133 (5) A consumer reporting agency need not remove a security freeze within the time
134 provided in Subsection (4)(b)(ii) if:
135 (a) the consumer provides an incorrect personal identification number;
136 (b) the consumer provides incomplete information; or
137 (c) the consumer reporting agency's ability to remove the security freeze within 15
138 minutes is prevented by:
139 (i) an act of God;
140 (ii) a fire;
141 (iii) a storm;
142 (iv) an earthquake;
143 (v) an accident; or
144 (vi) an event or cause beyond the consumer reporting agency's control.
145 (6) A consumer reporting agency complies with Subsection (4)(b)(ii) if it maintains
146 and utilizes a system that is capable of implementing a consumer's request to temporarily
147 remove a security freeze within 15 minutes after receiving the consumer's request.
148 Section 5. Section **13-42-203** is enacted to read:
149 **13-42-203. Exceptions.**
150 (1) Notwithstanding Section 13-42-201, a consumer reporting agency may furnish a
151 consumer's credit report to a third party if:

- 152 (a) (i) the purpose of the credit report is to:
153 (A) review the consumer's account with the third party, including for account
154 maintenance or monitoring, credit line increases, or other upgrades or enhancements; or
155 (B) collect on a financial obligation owed by the consumer to the third party requesting
156 the credit report; or
- 157 (ii) (A) the purpose of the credit report is to:
158 (I) review the consumer's account with another person; or
159 (II) collect on a financial obligation owed by the consumer to another person; and
160 (B) the third party requesting the credit report is a subsidiary, affiliate, agent, assignee,
161 or prospective assignee of the person holding the consumer's account or to whom the consumer
162 owes a financial obligation;
- 163 (b) the third party is acting under a court order, warrant, or subpoena requiring release
164 of the credit report;
- 165 (c) the third party is a child support agency, or its agent or assignee, acting under Part
166 D, Title IV of the Social Security Act or a similar state law;
- 167 (d) the federal Department of Health and Human Services or a similar state agency, or
168 its agent or assignee, investigating Medicare or Medicaid fraud;
- 169 (e) (i) the purpose of the credit report is to investigate or collect delinquent taxes,
170 assessments, or unpaid court orders; and
- 171 (ii) the third party is:
172 (A) the federal Internal Revenue Service;
173 (B) a state taxing authority;
174 (C) the Department of Motor Vehicles;
175 (D) a county, municipality, or other entity with taxing authority;
176 (E) a federal, state, or local law enforcement agency; or
177 (F) the agent or assignee of any entity listed in Subsection (1)(e)(ii)(A) through (E);
- 178 (f) the credit report is used for prescreening under 15 U.S.C. Sec. 1681b(c);
179 (g) the third party is administering a credit file monitoring subscription to which the
180 consumer has subscribed; or
- 181 (h) the third party requests the credit report for the sole purpose of providing the
182 consumer with a copy of the consumer's credit report or credit score upon the consumer's

183 request.

184 (2) Section 13-42-201 does not apply to:

185 (a) a consumer reporting agency, the sole purpose of which is to resell credit
186 information by assembling and merging information contained in the database of another
187 consumer reporting agency and that does not maintain a permanent database of credit
188 information from which a consumer's credit report is produced;

189 (b) a check services or fraud prevention services company that issues:

190 (i) reports on incidents of fraud; or

191 (ii) authorizations for the purpose of approving or processing negotiable instruments,
192 electronic funds transfers, or similar methods of payment; or

193 (c) a deposit account information service company that issues reports concerning
194 account closures based on fraud, substantial overdrafts, automated teller machine abuse, or
195 similar information concerning a consumer to a requesting financial institution for the purpose
196 of evaluating a consumer's request to create a deposit account.

197 (3) Nothing in this chapter prohibits a person from obtaining, aggregating, or using
198 information lawfully obtained from public records in a manner that does not otherwise violate
199 this chapter.

200 Section 6. Section **13-42-204** is enacted to read:

201 **13-42-204. Fees for security freeze.**

202 (1) Except as provided in Subsection (2), a consumer reporting agency may charge a
203 reasonable fee to a consumer for placing, removing, or temporarily removing a security freeze.

204 (2) A consumer reporting agency may not charge a fee for placing or removing a
205 security freeze if:

206 (a) the consumer is a victim of identity fraud under Section 76-6-1102; and

207 (b) the consumer provides the consumer reporting agency with a copy of a police report
208 documenting the identity fraud.

209 Section 7. Section **13-42-205** is enacted to read:

210 **13-42-205. Changes to information in a credit report subject to a security freeze.**

211 (1) If a credit report is subject to a security freeze, a consumer reporting agency shall
212 notify the consumer who is the subject of the credit report within 30 days if the consumer
213 reporting agency changes the consumer's:

- 214 (a) name;
- 215 (b) date of birth;
- 216 (c) Social Security number; or
- 217 (d) address.

218 (2) (a) Notwithstanding Subsection (1), a consumer reporting agency may make
 219 technical modifications to information in a credit report that is subject to a security freeze
 220 without providing notification to the consumer.

221 (b) Technical modifications under Subsection (2)(a) include:

- 222 (i) the addition or subtraction of abbreviations to names and addresses; and
- 223 (ii) transpositions or corrections of incorrect numbering or spelling.

224 (3) When providing notice of a change of address under Subsection (1), the consumer
 225 reporting agency shall provide notice to the consumer at the new address and the former
 226 address in a manner that does not include other sensitive personal information.

227 Section 8. Section **13-42-301** is enacted to read:

Part 3. Protection of Social Security Number

229 **13-42-301. Protection of Social Security number.**

230 (1) Except as allowed by other law, a person may not display a Social Security number
 231 in a manner or location that is likely to be open to public view.

232 (2) The state, or a branch, agency, or political subdivision of the state, may not employ
 233 or contract for the employment of an inmate in any Department of Corrections facility or
 234 county jail in any capacity that would allow any inmate access to any other person's personal
 235 information.

236 Section 9. Section **13-42-401** is enacted to read:

Part 4. Enforcement

238 **13-42-401. Enforcement.**

239 (1) The attorney general may enforce this chapter's provisions.

240 (2) (a) A consumer has a private right of action against a consumer reporting agency
 241 and any other person for a violation of this chapter.

242 (b) In an action by a consumer under Subsection (2)(a), the consumer may recover
 243 actual damages and court costs.

244 (3) A person who violates this chapter's provisions is subject to a civil fine of:

245 (a) no greater than \$2,500 for a violation or series of violations concerning a specific
246 consumer; and

247 (b) no greater than \$100,000 in the aggregate for related violations concerning more
248 than one consumer.

249 (4) In addition to the penalties provided in Subsection (3), the attorney general may
250 seek injunctive relief to prevent future violations of this chapter in:

251 (a) the district court located in Salt Lake City; or

252 (b) the district court for the district in which resides a consumer who is the subject of a
253 credit report on which a violation occurs.

254 Section 10. **Effective date.**

255 This bill takes effect on September 1, 2006, except that the amendments to Section
256 13-42-401 in this bill take effect on September 1, 2007.

Legislative Review Note

as of 1-19-06 3:32 PM

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

Fiscal Note
Bill Number SB0071

Consumer Credit Protection

27-Jan-06

9:28 AM

State Impact

No fiscal impact.

Individual and Business Impact

Persons acting under the provisions of this bill will pay reasonable fees.

Office of the Legislative Fiscal Analyst