

**Representative James A. Dunnigan** proposes the following substitute bill:

**CONSUMER REPORTING AGENCY FEES**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions of the Consumer Credit Protection Act.

**Highlighted Provisions:**

This bill:

- ▶ modifies the manner in which a consumer requests a placement or removal of a security freeze;
- ▶ addresses a consumer reporting agency's duties related to placing a security freeze;
- ▶ prohibits a consumer reporting agency from charging a fee in connection with placing or removing a security freeze; and
- ▶ prohibits a consumer reporting agency from charging a fee to download or install an application through which a person places or removes a security freeze.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**13-45-201**, as last amended by Laws of Utah 2015, Chapter 191



26 [13-45-202](#), as last amended by Laws of Utah 2015, Chapter 191

27 [13-45-204](#), as enacted by Laws of Utah 2006, Chapter 344

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

30 Section 1. Section **13-45-201** is amended to read:

31 **13-45-201. Security freeze.**

32 (1) As used in this part[, "security"]:

33 (a) "Security freeze" means a prohibition, consistent with the provisions of this section,  
34 on a consumer reporting agency's furnishing of a consumer's credit report to a third party  
35 intending to use the credit report to determine the consumer's eligibility for credit.

36 (b) "Unique personal identifier" means a personal identification number, password, or  
37 other secure form of identity verification provided by a consumer reporting agency and  
38 intended for use by a consumer to place, remove, or temporarily remove a security freeze in  
39 accordance with this chapter.

40 ~~[(2) A consumer may place a security freeze on the consumer's credit report by:]~~  
41 ~~[(a) making a request to a consumer reporting agency in writing by certified mail;]~~  
42 ~~[(b) providing proper identification; and]~~  
43 ~~[(c) paying the fee required by the consumer reporting agency in accordance with~~  
44 ~~Section [13-45-204](#).]~~

45 (2) (a) A consumer may request a security freeze on a consumer's credit report by:

46 (i) submitting a request for a security freeze to the consumer reporting agency by:

47 (A) certified mail to the postal address identified by the consumer reporting agency in  
48 accordance with Subsection (5); or

49 (B) electronic means developed by the consumer reporting agency in accordance with  
50 Subsection (5); and

51 (ii) providing proper identification or a unique personal identifier to the consumer  
52 reporting agency.

53 (b) Upon receipt of a request described in Subsection (2)(a), the consumer reporting  
54 agency shall:

55 (i) place a security freeze on the consumer's credit report:

56 (A) if the consumer submits the request by certified mail, within five business days

57 after the business day on which the consumer reporting agency receives the request and the  
58 consumer's proper identification or unique personal identifier; or

59 (B) if the consumer submits the request by electronic means, within 15 minutes after  
60 the consumer reporting agency receives the request and the consumer's proper identification or  
61 unique personal identifier;

62 (ii) provide the consumer a unique personal identifier, unless the consumer already has  
63 a unique personal identifier; and

64 (iii) within five business days after the business day on which the consumer reporting  
65 agency places the security freeze, provide the consumer confirmation that the consumer  
66 reporting agency placed the security freeze.

67 (3) If a security freeze is in place, a consumer reporting agency may not release a  
68 consumer's credit report, or information from the credit report, to a third party that intends to  
69 use the information to determine a consumer's eligibility for credit without prior authorization  
70 from the consumer.

71 (4) (a) Notwithstanding Subsection (3), a consumer reporting agency may  
72 communicate to a third party requesting a consumer's credit report that a security freeze is in  
73 effect on the consumer's credit report.

74 (b) If a third party requesting a consumer's credit report in connection with the  
75 consumer's application for credit is notified of the existence of a security freeze under  
76 Subsection (4)(a), the third party may treat the consumer's application as incomplete.

77 ~~[(5) Upon receiving a request from a consumer under Subsection (2), the consumer~~  
78 ~~reporting agency shall:]~~

79 ~~[(a) place a security freeze on the consumer's credit report within five business days~~  
80 ~~after receiving the consumer's request;]~~

81 ~~[(b) send a written confirmation of the security freeze to the consumer within 10~~  
82 ~~business days after placing the security freeze; and]~~

83 ~~[(c) provide the consumer with a unique personal identification number or password to~~  
84 ~~be used by the consumer when providing authorizations for removal or temporary removal of~~  
85 ~~the security freeze under Section 13-45-202;]~~

86 ~~[(6) A consumer reporting agency shall require proper identification of the consumer~~  
87 ~~requesting to place, remove, or temporarily remove a security freeze.]~~

88           ~~[(7)]~~ (5) (a) A consumer reporting agency shall develop a contact method to receive  
89 and process a consumer's request to place, remove, or temporarily remove a security freeze.

90           (b) A contact method under Subsection ~~[(7)]~~ (5)(a) shall include:

91           (i) a postal address;

92           (ii) an electronic contact method chosen by the consumer reporting agency, which may  
93 include the use of fax, Internet, or other electronic means; and

94           (iii) the use of telephone in a manner that is consistent with any federal requirements  
95 placed on the consumer reporting agency.

96           ~~[(8)]~~ (6) A security freeze placed under this section may be removed only in  
97 accordance with Section [13-45-202](#).

98           (7) (a) The time requirement described in Subsection (2)(b)(i)(B) does not apply if the  
99 consumer reporting agency's ability to place the security freeze is prevented by:

100           (i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural  
101 disaster or phenomena;

102           (ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,  
103 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

104           (iii) operational interruption, including electrical failure, unanticipated delay in  
105 equipment or replacement part delivery, computer hardware or software failures inhibiting  
106 response time, or similar disruption;

107           (iv) governmental action, including emergency orders or regulations, judicial or law  
108 enforcement action, or similar directives;

109           (v) regularly scheduled maintenance, during other than normal business hours, of, or  
110 updates to, the consumer reporting agency's systems; or

111           (vi) commercially reasonable maintenance of, or repair to, the consumer reporting  
112 agency's systems that is unexpected or unscheduled.

113           (b) In the event of a circumstance described in Subsection (7)(a), the consumer  
114 reporting agency shall place the security freeze as soon as practicable.

115           Section 2. Section **13-45-202** is amended to read:

116           **13-45-202. Removal of security freeze -- Requirements and timing.**

117           (1) A consumer reporting agency ~~[may]~~ shall remove a security freeze from a  
118 consumer's credit report only if:

119 (a) (i) the consumer reporting agency receives the consumer's request through [a] the  
 120 contact method established and required in accordance with Subsection 13-45-201[(7)](5); and

121 (ii) the consumer reporting agency receives the consumer's [~~proper identification and:~~]  
 122 unique personal identifier; or

123 [~~(A) other information sufficient to identify the consumer; or]~~

124 [~~(B) the consumer provides the consumer's personal identification number or~~  
 125 ~~password; or]~~

126 (b) the consumer makes a material misrepresentation of fact in connection with the  
 127 placement of the security freeze and the consumer reporting agency notifies the consumer in  
 128 writing before removing the security freeze.

129 (2) [(a)] A consumer reporting agency shall temporarily remove a security freeze upon  
 130 receipt of:

131 [(i)] (a) the consumer's request through the contact method established by the consumer  
 132 reporting agency in accordance with Subsection 13-45-201[(7)](5);

133 [(ii)] (b) the consumer's [~~proper identification and:~~ unique personal identifier; and

134 [~~(A) other information sufficient to identify the consumer; or]~~

135 [~~(B) personal identification number or password;]~~

136 [(iii)] (c) a specific designation of the period of time for which the security freeze is to  
 137 be removed[; and].

138 [(iv) ~~the consumer reporting agency receives the payment of any fee required under~~  
 139 ~~Section 13-45-204;]~~

140 [(b)] (3) A consumer reporting agency shall remove or temporarily remove a security  
 141 freeze from a consumer's credit report within:

142 [(i)] (a) three business days after the business day on which the consumer's written  
 143 request to remove the security freeze is received by the consumer reporting agency at the postal  
 144 address chosen by the consumer reporting agency in accordance with Subsection  
 145 13-45-201[(7)](5); or

146 [(ii)] (b) 15 minutes after the consumer's request is received by the consumer reporting  
 147 agency through the electronic contact method chosen by the consumer reporting agency in  
 148 accordance with Subsection 13-45-201[(7)](5), or the use of telephone, during normal business  
 149 hours and includes the consumer's [~~proper identification and correct personal identification~~

150 ~~number or password]~~ unique personal identifier.

151 ~~[(3) A consumer reporting agency need not remove a security freeze within the time~~  
152 ~~provided in Subsection (2)(b)(ii) if:]~~

153 ~~[(a) the consumer fails to meet the requirements of Subsection 13-45-202(1); or]~~

154 ~~[(b) the consumer reporting agency's ability to remove the security freeze within 15~~  
155 ~~minutes is prevented by:]~~

156 (4) (a) The time requirement described in Subsection (3)(b) does not apply if the  
157 consumer reporting agency's ability to remove the security freeze is prevented by:

158 (i) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural  
159 disaster or phenomena;

160 (ii) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,  
161 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;

162 (iii) operational interruption, including electrical failure, unanticipated delay in  
163 equipment or replacement part delivery, computer hardware or software failures inhibiting  
164 response time, or similar disruption;

165 (iv) governmental action, including emergency orders or regulations, judicial or law  
166 enforcement action, or similar directives;

167 (v) regularly scheduled maintenance, during other than normal business hours, of, or  
168 updates to, the consumer reporting agency's systems; or

169 (vi) commercially reasonable maintenance of, or repair to, the consumer reporting  
170 agency's systems that is unexpected or unscheduled~~;~~ or.

171 (b) In the event of a circumstance described in Subsection (4)(a), the consumer  
172 reporting agency shall remove the security freeze as soon as practicable.

173 ~~[(vii) receipt of a removal request outside of normal business hours:]~~

174 Section 3. Section **13-45-204** is amended to read:

175 **13-45-204. Fees for security freeze.**

176 ~~[(1) Except as provided in Subsection (2), a consumer reporting agency may charge a~~  
177 ~~reasonable fee to a consumer for placing and temporarily removing a security freeze.]~~

178 ~~[(2)]~~ (1) A consumer reporting agency may not charge a fee for placing, removing, or  
179 temporarily removing a security freeze ~~[if:]~~.

180 ~~[(a) the consumer is a victim of identity fraud under Section 76-6-1102; and]~~

181           ~~[(b) the consumer provides the consumer reporting agency with a valid copy of a police~~  
182 ~~report or police case number documenting the identity fraud.]~~

183           (2) A consumer reporting agency may not charge a fee to download or install an  
184 application through which a person places or removes a security freeze.