

HB0045S02 compared with HB0045S01

~~text~~ shows text that was in HB0045S01 but was deleted in HB0045S02.

Inserted text shows text that was not in HB0045S01 but was inserted into HB0045S02.

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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

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~~a mobile application through which a person places or removes a security freeze.

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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

13-45-202, as last amended by Laws of Utah 2015, Chapter 191

13-45-204, as enacted by Laws of Utah 2006, Chapter 344

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

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

13-45-201. Security freeze.

(1) As used in this part~~[-"security"]~~:

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

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

~~[(2) A consumer may place a security freeze on the consumer's credit report by:]~~

~~[(a) making a request to a consumer reporting agency in writing by certified mail;]~~

~~[(b) providing proper identification; and]~~

~~[(c) paying the fee required by the consumer reporting agency in accordance with~~

~~Section 13-45-204.]~~

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

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

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

(B) electronic means developed by the consumer reporting agency in accordance with

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Subsection (5); and

(i) providing proper identification ~~{or a unique personal identifier}~~ to the consumer reporting agency.

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

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

(A) if the consumer submits the request by certified mail, ~~{within}~~ as soon as practicable but no later than five business days after the business day on which the consumer reporting agency receives the request and the consumer's proper identification ~~{or unique personal identifier; or~~

~~—(B);~~

(B) if the consumer submits the request by a contact method described in Subsection (5)(a)(ii) or (iii), as soon as practicable but no later than 24 hours after the consumer reporting agency receives the request and the consumer's proper identification; or

(c) if the consumer submits the request by ~~{electronic means}~~ mobile application, within 15 minutes after the consumer reporting agency receives the request and the consumer's proper identification ~~{or unique personal identifier};~~

(ii) provide the consumer a unique personal identifier, unless the consumer ~~{already has}~~ reporting agency previously provided the consumer a unique personal identifier; and

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

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

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

(b) If a third party requesting a consumer's credit report in connection with the consumer's application for credit is notified of the existence of a security freeze under

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Subsection (4)(a), the third party may treat the consumer's application as incomplete.

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

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

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

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

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

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

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

~~(i) a postal address;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(iii)~~] (c) a specific designation of the period of time for which the security freeze is to

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be removed[; and].

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

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

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

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

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

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

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

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

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

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

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

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

(v) regularly scheduled maintenance, during other than normal business hours, of, or

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updates to, the consumer reporting agency's systems; or

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

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

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

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

13-45-204. Fees for security freeze.

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

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

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

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

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