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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 836

02/21/2013 Authored by Wills, Holberg, Simon, Winkler, Hortman and others

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to consumer protection; authorizing certain representatives of protected
1.3 consumers to lift or remove credit freezes; amending Minnesota Statutes 2012,
1.4 section 13C.016.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 13C.016, is amended to read:

1.7 13C.016 CONSUMER SECURITY FREEZE.

1.8 Subdivision 1. Definitions. (a) For purposes of this section and sections 13C.017 to
1.9 13C.019, the terms defined in this section have the meanings given.

1.10 (b) "Protected consumer" means an individual who is:

1.11 (1) not older than 16 years old at the time a representative requests a security freeze
1.12 on the individual's behalf; or

1.13 (2) incapacitated or for whom a court or other authority has appointed a guardian
1.14 or conservator.

1.15 (c) "Representative" means a consumer who provides a consumer reporting agency
1.16 with sufficient proof of the consumer's authority to act on a protected consumer's behalf.

1.17 (d) "Security freeze" means a notice placed in a consumer's consumer report,
1.18 at the request of the consumer or representative and subject to certain exceptions, that
1.19 prohibits the consumer reporting agency from releasing the consumer report or any
1.20 information from it, in connection with the extension of credit or the opening of a new
1.21 account, without the express authorization of the consumer or representative. If a security
1.22 freeze is in place, information from a consumer's consumer report may not be released
1.23 to a third party, in connection with the extension of credit or the opening of an account,
1.24 without prior express authorization from the consumer or representative. This paragraph

2.1 does not prevent a consumer reporting agency from advising a third party that a security  
 2.2 freeze is in effect with respect to the consumer report.

2.3 (e) (e) "Victim of identity theft" means a consumer who has a copy of a valid police  
 2.4 report evidencing that the consumer has alleged to be a victim of identity theft as defined  
 2.5 in section 609.527.

2.6 Subd. 2. **Right to obtain security freeze.** A consumer or representative may elect  
 2.7 to place a security freeze on the consumer's consumer report by making a request to a  
 2.8 consumer reporting agency. The consumer or representative may make the request:

2.9 (1) by certified mail;

2.10 (2) by telephone by providing certain personal identification required by the  
 2.11 consumer reporting agency; or

2.12 (3) directly to the consumer reporting agency through a secure electronic mail  
 2.13 connection if the connection is made available by the consumer reporting agency.

2.14 Subd. 2a. **Proof of representative's authority to act.** A representative who  
 2.15 seeks to place a security freeze on a protected consumer's consumer report shall provide  
 2.16 sufficient proof of the representative's authority to act on the protected consumer's behalf.  
 2.17 Sufficient proof of authority consists of:

2.18 (1) a court order that identifies or describes the relationship between the  
 2.19 representative and the protected consumer;

2.20 (2) a valid and lawfully executed power of attorney that permits the representative to  
 2.21 act on the protected consumer's behalf; or

2.22 (3) a written affidavit that the representative signs and has notarized in which the  
 2.23 representative expressly describes the relationship between the representative and the  
 2.24 protected consumer and the representative's authority to act on the protected consumer's  
 2.25 behalf.

2.26 Subd. 3. **Response of consumer reporting agency.** (a) A consumer reporting agency  
 2.27 shall place a security freeze on a consumer's consumer report no later than three business  
 2.28 days after receiving a request under subdivision 2 from the consumer or representative.

2.29 (b) The consumer reporting agency, within ten business days after receiving the  
 2.30 request, shall send a written confirmation of the security freeze to the ~~consumer~~ requester  
 2.31 and provide the ~~consumer~~ requester with a unique personal identification number or  
 2.32 password to be used by the ~~consumer~~ requester when providing authorization for the  
 2.33 release of the consumer's consumer report for a specific party or period of time.

2.34 (c) When a consumer or representative requests a security freeze, the consumer  
 2.35 reporting agency shall disclose the process of placing and temporarily lifting a freeze,

3.1 including the process for allowing access to information from the consumer's consumer  
3.2 report for a specific party or period of time while the freeze is in place.

3.3 Subd. 4. **Temporary lifting or permanent removal of freeze.** (a) If the consumer  
3.4 or representative wishes to allow the consumer's consumer report to be accessed for a  
3.5 specific party or period of time while a freeze is in place, the consumer or representative  
3.6 shall contact the consumer reporting agency, request that the freeze be temporarily lifted,  
3.7 and provide the following:

3.8 (1) proper identification, which means that information generally deemed sufficient  
3.9 to identify a person. Only if the consumer or representative is unable to sufficiently  
3.10 provide self-identifying information may a consumer reporting agency require additional  
3.11 information concerning the consumer's employment and personal or family history in  
3.12 order to verify the consumer's identity;

3.13 (2) the unique personal identification number or password provided by the credit  
3.14 reporting agency under subdivision 3, paragraph (b); and

3.15 (3) the proper information regarding the third party who is to receive the consumer  
3.16 report or the time period for which the report is to be available to users of the consumer  
3.17 report.

3.18 (b) A consumer reporting agency that receives a request from a consumer or  
3.19 representative to temporarily lift a freeze on a consumer report under paragraph (a) shall  
3.20 comply with the request no later than three business days after receiving the request.

3.21 (c) A consumer reporting agency may develop procedures involving the use of  
3.22 telephone, fax, the Internet, or other electronic media to receive and process a request  
3.23 from a consumer or representative to temporarily lift a freeze on a consumer report under  
3.24 paragraph (a) in an expedited manner, with the goal of processing a request within 15  
3.25 minutes after the request.

3.26 (d) A consumer reporting agency shall remove or temporarily lift a freeze placed on  
3.27 a consumer report only in the following cases:

3.28 (1) upon consumer or representative request under paragraph (a) or (e); or

3.29 (2) when the consumer report was frozen due to a material misrepresentation of  
3.30 fact by the consumer. When a consumer reporting agency intends to remove a freeze  
3.31 on a consumer report under this clause, the consumer reporting agency shall notify the  
3.32 consumer and the representative in writing three business days prior to removing the  
3.33 freeze on the consumer report.

3.34 (e) A security freeze remains in place until the consumer or representative requests  
3.35 that the security freeze be removed. A consumer reporting agency shall remove a security

4.1 freeze within three business days of receiving a request for removal from the consumer or  
4.2 representative, who provides both of the following:

4.3 (1) proper identification, as defined in paragraph (a), clause (1); and

4.4 (2) the unique personal identification number or password referenced in paragraph  
4.5 (a), clause (2).

4.6 Subd. 5. **Response by third party to denial of access.** When a third party requests  
4.7 access to a consumer report on which a security freeze is in effect, and this request is in  
4.8 connection with an application for credit or the opening of an account and the consumer  
4.9 or representative does not allow the consumer's consumer report to be accessed for that  
4.10 specific party or period of time, the third party may treat the application as incomplete.

4.11 Subd. 6. **Nonapplicability.** This section does not apply to the use of a consumer  
4.12 report by any of the following:

4.13 (1) a person or entity, or a subsidiary, affiliate, or agent of that person or entity, or  
4.14 an assignee of a financial obligation owing by the consumer to that person or entity, or a  
4.15 prospective assignee of a financial obligation owing by the consumer to that person or  
4.16 entity in conjunction with the proposed purchase of the financial obligation, with which  
4.17 the consumer has or had prior to assignment an account or contract, including a demand  
4.18 deposit account, or to whom the consumer issued a negotiable instrument, for the purposes  
4.19 of reviewing the account or collecting the financial obligation owing for the account,  
4.20 contract, or negotiable instrument. For purposes of this clause, "reviewing the account"  
4.21 includes activities related to account maintenance, monitoring, credit line increases, and  
4.22 account upgrades and enhancements;

4.23 (2) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person  
4.24 to whom access has been granted under subdivision 4 for purposes of facilitating the  
4.25 extension of credit or other permissible use;

4.26 (3) any federal, state, or local governmental entity, including but not limited to a  
4.27 law enforcement agency, court, or its agents or assigns;

4.28 (4) a private collection agency acting under a court order, warrant, or subpoena;

4.29 (5) any person or entity for the purposes of prescreening as provided for by the  
4.30 federal Fair Credit Reporting Act;

4.31 (6) any person or entity administering a credit file monitoring subscription service to  
4.32 which the consumer has subscribed; and

4.33 (7) any person or entity for the purpose of providing a consumer with a copy of the  
4.34 consumer's consumer report upon the consumer's request.

4.35 Subd. 7. **Information to government agencies not affected.** This section does  
4.36 not prohibit a consumer reporting agency from furnishing to a governmental agency

5.1 a consumer's name, address, former address, places of employment, or former places of  
5.2 employment.

5.3 Subd. 8. **Fees.** (a) A consumer reporting agency may charge a fee of \$5 for placing,  
5.4 temporarily lifting, or removing a security freeze unless:

5.5 (1) the consumer is a victim of identity theft as defined in subdivision 1, paragraph  
5.6 (c); and

5.7 (2) the consumer or representative provides the consumer reporting agency with a  
5.8 valid copy of a police report or a police case number documenting the identity theft.

5.9 (b) In addition to the charge, if any, permitted under paragraph (a), a consumer  
5.10 or representative may be charged no more than \$5 if the consumer or representative  
5.11 fails to retain the original personal identification number given to the consumer or  
5.12 representative by the agency, but the consumer or representative may not be charged for a  
5.13 onetime reissue of the same or a new personal identification number. The consumer or  
5.14 representative may be charged no more than \$5 for subsequent instances of loss of the  
5.15 personal identification number.

5.16 (c) A consumer or representative who makes a written request by mail may pay  
5.17 any fee charged pursuant to this subdivision by check, money order, or credit card. A  
5.18 consumer or representative who makes a request by telephone or other electronic media  
5.19 may pay any fee charged pursuant to this subdivision by credit card.