

**SUBSTITUTE FOR  
SENATE BILL NO. 340**

A bill to require certain consumer reporting agencies to place security freezes on certain consumer credit information; to provide for the removal and temporary lifting of security freezes; to provide for the powers and duties of certain state officers and entities; and to authorize and limit fees.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "consumer credit protection act".

3       Sec. 3. As used in this act:

4       (a) "Clear and proper identification" means information  
5 generally considered sufficient to identify an individual.

6       (b) "Consumer" means an individual who resides in this state.

7       (c) "Consumer reporting agency" means that term as defined in

1 15 USC 1681a(f). The term does not include a check acceptance  
2 service that provides check approval and guarantee services to  
3 merchants.

4 (d) "Credit report" means a consumer report, as defined in 15  
5 USC 1681a, that is used or collected in whole or part for the  
6 purpose of serving as a factor in establishing a consumer's  
7 eligibility for credit for personal, family, or household purposes.

8 (e) In connection with a reply by a consumer reporting agency  
9 to an electronic request, "delay event" means any of the following:

10 (i) The electronic request is received after 9:30 p.m. and  
11 before 6 a.m. eastern standard time.

12 (ii) An act of God, including, but not limited to, fire,  
13 earthquake, hurricane, storm, or similar natural disaster or  
14 phenomenon.

15 (iii) An unauthorized or illegal act by a third party,  
16 including, but not limited to, terrorism, sabotage, riot,  
17 vandalism, a labor strike or dispute disrupting operations, or  
18 similar occurrence.

19 (iv) An operational interruption, including, but not limited  
20 to, electrical failure, unanticipated delay in equipment or  
21 replacement part delivery, computer hardware or software failure  
22 inhibiting response time, or similar disruption.

23 (v) Governmental action, including, but not limited to, an  
24 emergency order or regulation, judicial or law enforcement action,  
25 or similar directive.

26 (vi) Regularly scheduled maintenance of or updates to a  
27 consumer reporting agency's computer system that occur outside of

1 normal business hours.

2 (vii) Commercially reasonable maintenance of or repair to a  
3 consumer reporting agency's computer system that is unexpected or  
4 unscheduled.

5 (viii) The consumer reporting agency cannot access the  
6 electronic mail address, telephone number, or facsimile number  
7 provided by the consumer in compliance with the process described  
8 in section 7(1)(b).

9 (f) "Electronic request" means a request sent to a consumer  
10 reporting agency by electronic mail, secure internet website,  
11 telephone, facsimile, or other similar means of telephonic or  
12 electronic communication as selected by the consumer reporting  
13 agency, by submitting that request to the electronic mail address,  
14 internet website, telephone number, or facsimile number designated  
15 by the consumer reporting agency to receive that type of request,  
16 that includes clear and proper identification of the consumer.

17 (g) "Security freeze" means a notice placed on a consumer  
18 report at the request of the consumer that prohibits a consumer  
19 reporting agency from releasing the consumer's credit report or  
20 credit score related to extensions of credit without the express  
21 authorization of the consumer except in compliance with this act.

22 (h) "Written request" means a request sent to a consumer  
23 reporting agency, in writing, by certified mail to an address  
24 designated by the consumer reporting agency to receive that type of  
25 request, that includes clear and proper identification of the  
26 consumer and the consumer's address for replies.

27 Sec. 5. (1) Beginning on the effective date of this act, a

1 consumer who is a victim of identity theft may request and a  
2 consumer reporting agency shall place a security freeze on that  
3 consumer's credit report if that consumer submits a written request  
4 to the consumer reporting agency and includes with the request a  
5 copy of a police report that alleges that he or she was a victim of  
6 identity theft.

7 (2) All of the following apply beginning September 1, 2008:

8 (a) As an alternative to a written request under subsection  
9 (1), a consumer who is a victim of identity theft may request and a  
10 consumer reporting agency shall place a security freeze on that  
11 consumer's credit report if that consumer submits an electronic  
12 request to the consumer reporting agency and includes with the  
13 request a copy of a police report that alleges that he or she was a  
14 victim of identity theft.

15 (b) A consumer who is 65 years old or older may request and a  
16 consumer reporting agency shall place a security freeze on that  
17 consumer's credit report if that consumer submits a written request  
18 or an electronic request to the consumer reporting agency.

19 (3) Beginning January 1, 2009, any consumer may request and a  
20 consumer reporting agency shall place a security freeze on that  
21 consumer's credit report if that consumer submits a written request  
22 or an electronic request to the consumer reporting agency and  
23 includes with the request payment of the fee under section 13, if  
24 applicable.

25 (4) A consumer reporting agency shall place a security freeze  
26 on a consumer's credit report within 10 business days after  
27 receiving a written or electronic request for the security freeze

1 that complies with this section from the consumer.

2 (5) If a security freeze is in place, a consumer reporting  
3 agency shall not release information from a credit report to a  
4 third party without prior express authorization from the consumer.  
5 This subsection does not prevent a consumer reporting agency from  
6 advising a third party that a security freeze is in effect with  
7 respect to the consumer's credit report.

8 Sec. 7. (1) Within 10 business days after a consumer reporting  
9 agency receives a written or electronic request to place a security  
10 freeze that complies with section 5, the consumer reporting agency  
11 shall provide the consumer with written confirmation of the  
12 security freeze and a unique personal identification number or  
13 password that the consumer may use to remove or temporarily lift a  
14 security freeze under section 11. In addition, the consumer  
15 reporting agency shall simultaneously provide all of the following  
16 to the consumer in writing:

17 (a) The process for placing, removing, and temporarily lifting  
18 a security freeze.

19 (b) The process for obtaining a replacement or reminder of a  
20 personal identification number or password for purposes of  
21 subsections (2) and (3), including, but not limited to, a  
22 description of how a consumer may submit an electronic request for  
23 a replacement or reminder of a personal identification number or  
24 password; whether the consumer reporting agency uses electronic  
25 mail, telephone calls, facsimile transmissions, postings to secure  
26 internet websites, or other similar means of telephonic or  
27 electronic communication to send replacements or reminders of

1 personal identification numbers or passwords under subsection (4);  
2 and how a consumer may provide or update his or her electronic mail  
3 address, telephone number, facsimile number, or other telephonic or  
4 electronic contact information to the consumer reporting agency.

5 (c) The process for obtaining a specific personal  
6 identification number or password for purposes of subsection (5).

7 (2) A consumer who has forgotten or cannot locate his or her  
8 personal identification number or password for purposes of  
9 subsection (1) may submit a written request for a replacement  
10 personal identification number or password. Within 10 business days  
11 after a consumer reporting agency receives a written request for a  
12 replacement personal identification number or password, the  
13 consumer reporting agency shall provide the consumer with a new,  
14 unique personal identification number or password to be used by the  
15 consumer instead of the number or password that was provided under  
16 subsection (1).

17 (3) Beginning January 1, 2009, as an alternative to making a  
18 written request for a replacement personal identification number or  
19 password under subsection (2), if a consumer who is entitled to  
20 make an electronic request to place a security freeze under section  
21 5 forgets or cannot locate his or her personal identification  
22 number or password, the consumer may obtain a replacement or  
23 reminder of his or her personal identification number or password  
24 by submitting an electronic request for a replacement or reminder  
25 of his or her personal identification number or password to the  
26 consumer reporting agency.

27 (4) Within 15 minutes after a consumer reporting agency

1 receives an electronic request for a replacement or reminder of a  
2 personal identification number or password under subsection (3),  
3 unless the consumer reporting agency's ability to respond in 15  
4 minutes is prevented by a delay event, the consumer reporting  
5 agency shall provide the consumer with a new, unique personal  
6 identification number or password that the consumer may use instead  
7 of the number or password provided under subsection (1), or provide  
8 the consumer with a reminder of his or her personal identification  
9 number or password. The consumer reporting agency shall send the  
10 replacement personal identification number or password or reminder  
11 of the consumer's personal identification number or password to the  
12 consumer's electronic mail address, telephone number, facsimile  
13 number, secure internet website, or other telephonic or electronic  
14 communication destination number or address provided pursuant to  
15 the process described in subsection (1)(b). If the consumer has not  
16 provided a current electronic mail address, telephone number, or  
17 facsimile number to the consumer reporting agency in compliance  
18 with that process, the consumer reporting agency may provide the  
19 replacement personal identification number or password or reminder  
20 of the consumer's personal identification number or password to the  
21 consumer pursuant to subsection (2).

22 (5) A consumer may submit a written request, or an electronic  
23 request if that consumer is entitled to make an electronic request  
24 to place a security freeze under section 5, for a specific personal  
25 identification number or password that the consumer may use to  
26 remove or temporarily lift a security freeze under section 11. The  
27 request must include the personal identification number or password

1 assigned by the consumer reporting agency; include the specific  
2 personal identification number or password requested by the  
3 consumer; and comply with the process described in subsection  
4 (1)(c). Within 10 business days after a consumer reporting agency  
5 receives a request for a specific personal identification number or  
6 password under this subsection, the consumer reporting agency shall  
7 provide the consumer with the personal identification number or  
8 password requested by the consumer or notification that the  
9 personal identification number or password is unavailable for use  
10 by the consumer.

11       Sec. 9. If a security freeze is in effect, a consumer  
12 reporting agency shall not change a consumer's name, address, date  
13 of birth, or social security number in a credit report without  
14 sending a written confirmation of the change to the consumer within  
15 30 days after the posting of the change to the credit report. If  
16 the change is an address change, the consumer reporting agency  
17 shall send written confirmation to both the new address and the  
18 former address. Written confirmation is not required for a  
19 technical modification of information in a credit report, including  
20 name and street abbreviations, complete spellings, or transposition  
21 of numbers or letters.

22       Sec. 11. (1) A consumer reporting agency shall remove or  
23 temporarily lift a security freeze placed on a credit report only  
24 if 1 of the following applies:

25       (a) The consumer makes a request under this section to the  
26 consumer reporting agency at a point of contact designated by that  
27 consumer reporting agency.

1 (b) The credit report is frozen due to a material  
2 misrepresentation of fact by the consumer. If a consumer reporting  
3 agency intends to remove a security freeze on a credit report under  
4 this subdivision, the consumer reporting agency shall provide  
5 written notice to the consumer before removing the security freeze.

6 (2) If a consumer wishes to allow access to his or her credit  
7 report for a specific period of time while a security freeze is in  
8 place, he or she may make a written request to the consumer  
9 reporting agency to temporarily lift the security freeze. The  
10 written request shall include the unique personal identification  
11 number or password established under section 7 and the specific  
12 time period that the consumer requests that the consumer reporting  
13 agency allow a creditor or proposed creditor access to his or her  
14 credit report. A consumer reporting agency that receives a written  
15 request to temporarily lift a security freeze on a consumer's  
16 credit report shall comply with the request within 3 business days  
17 after receiving the request.

18 (3) If a consumer who is entitled to make an electronic  
19 request to place a security freeze under section 5 wishes to allow  
20 access to his or her credit report for a specific period of time  
21 while a security freeze is in place, he or she may make an  
22 electronic request to the consumer reporting agency to temporarily  
23 lift the freeze. The electronic request shall include the unique  
24 personal identification number or password established under  
25 section 7 and the specific time period that the consumer requests  
26 that the consumer reporting agency allow a creditor or proposed  
27 creditor access to his or her credit report. Within 15 minutes

1 after a consumer reporting agency receives an electronic request to  
2 temporarily lift a security freeze, unless the consumer reporting  
3 agency's ability to respond in 15 minutes is prevented by a delay  
4 event, the consumer reporting agency shall comply with the request  
5 to temporarily lift the security freeze and provide the consumer  
6 with notice that the security freeze is temporarily lifted.

7 (4) A security freeze shall remain in place until the consumer  
8 requests that the consumer reporting agency remove the security  
9 freeze. The request shall include the unique personal  
10 identification number or password established under section 7. A  
11 consumer reporting agency shall remove a security freeze within 3  
12 business days after receiving a written request for removal from a  
13 consumer, or after receiving an electronic request for removal from  
14 a consumer who is entitled to make an electronic request to place a  
15 security freeze under section 5.

16 Sec. 13. (1) Subject to subsection (2), a consumer reporting  
17 agency may impose a reasonable fee on a consumer for placing a  
18 security freeze on a credit report. The amount of the fee may not  
19 exceed \$10.00 per request.

20 (2) A consumer reporting agency may not charge any of the  
21 following consumers a fee for placing a security freeze on a credit  
22 report:

23 (a) A consumer who was a victim of identity theft and who  
24 provides the consumer reporting agency with a police report that  
25 alleges that the consumer was a victim of identity theft.

26 (b) A consumer who is 65 years old or older.

27 (3) A consumer reporting agency shall not charge a consumer a

1 fee for lifting or removing a security freeze under this act.

2 (4) A consumer reporting agency may impose a reasonable fee on  
3 a consumer for issuing a replacement personal identification number  
4 or password or a specific personal identification number or  
5 password under section 7. The amount of the fee may not exceed  
6 \$10.00 per request.

7 Sec. 15. The following entities are not required to place a  
8 security freeze on a credit report:

9 (a) A consumer reporting agency that acts only as a reseller  
10 of credit information by assembling and merging information  
11 contained in the database of another consumer reporting agency or  
12 multiple consumer reporting agencies and does not maintain a  
13 permanent database of credit information from which new credit  
14 reports are produced. However, a consumer reporting agency acting  
15 as a reseller shall honor any security freeze placed on a credit  
16 report by another consumer reporting agency.

17 (b) A check services or fraud prevention services company that  
18 issues reports on incidents of fraud or authorizations for the  
19 purpose of approving or processing negotiable instruments,  
20 electronic funds transfers, or similar methods of payments.

21 (c) A deposit account information service company that issues  
22 reports regarding account closures due to fraud, substantial  
23 overdrafts, automatic teller machine abuse, or similar negative  
24 information regarding a consumer to inquiring financial  
25 institutions for use only in reviewing a consumer request for a  
26 deposit account at the inquiring financial institution.

27 Sec. 17. (1) This act does not apply to the use of a credit

1 report by any of the following:

2 (a) If the credit report is used for the purpose of reviewing  
3 the account or collecting the financial obligation owing for the  
4 account, contract, or negotiable instrument, a person with which a  
5 consumer has or had prior to assignment an account or contract or  
6 to which the consumer has issued a negotiable instrument; a  
7 subsidiary, affiliate, or agent of that person; an assignee of a  
8 financial obligation owed by the consumer to that person; or a  
9 prospective assignee of a financial obligation owed by the consumer  
10 to that person in conjunction with the proposed purchase of the  
11 financial obligation.

12 (b) A subsidiary, affiliate, agent, assignee, or prospective  
13 assignee of a person to which access has been granted for purposes  
14 of facilitating an extension of credit or other permissible use.

15 (c) A state or local agency, law enforcement agency, trial  
16 court, or private collection agency acting pursuant to a court  
17 order, warrant, or subpoena.

18 (d) A child support agency acting pursuant to part d of title  
19 IV of the social security act, 42 USC 651 to 669b.

20 (e) The state or its agents or assigns acting to investigate  
21 fraud, acting to investigate or collect delinquent taxes or unpaid  
22 court orders, or acting to fulfill any of its other statutory  
23 responsibilities if those responsibilities are consistent with a  
24 permissible purpose under 15 USC 1681b.

25 (f) A person setting or adjusting a rate, adjusting a claim,  
26 or underwriting for insurance purposes.

27 (g) A person using credit information for the purpose of

1 prescreening as provided for by the fair credit reporting act, 15  
2 USC 1681 to 1681v.

3 (h) A person administering a credit report monitoring  
4 subscription service to which the consumer has subscribed.

5 (i) A person providing a consumer with a copy of his or her  
6 credit report in response to the consumer's request.

7 (2) As used in this section:

8 (a) "Account" includes a demand deposit account.

9 (b) "Reviewing the account" includes activities related to  
10 account maintenance, monitoring, credit line increases, and account  
11 upgrades and enhancements.

12 Sec. 19. (1) The office of financial and insurance services in  
13 the department of labor and economic growth shall provide  
14 information describing the process for placing a security freeze  
15 under this act and educational information concerning how placing a  
16 security freeze can help reduce identity theft on a webpage  
17 available to the public through its internet website.

18 (2) The office of attorney general shall post a link to the  
19 webpage described in subsection (1) on its internet website.

20 Enacting section 1. This act takes effect 90 days after the  
21 date it is enacted.

22 Enacting section 2. This act does not take effect unless  
23 Senate Bill No. 75 of the 94th Legislature is enacted into law.