

**First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

REREVISED

This Version Includes All Amendments

Adopted in the Second House

LLS NO. 05-0751.01 Michael Dohr

SENATE BILL 05-137

SENATE SPONSORSHIP

Grossman

HOUSE SPONSORSHIP

Paccione, and Frangas

Senate Committees

Business, Labor and Technology
Appropriations

House Committees

Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING IDENTITY THEFT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Permits a consumer to put a security freeze on his or her credit report. Allows the consumer to temporarily lift the freeze to allow a particular entity access to the credit report for the purpose of issuing or extending credit to the consumer. Requires the freeze to be maintained until the consumer specifically requests its removal.

Requires that a consumer be notified of the right to place a security freeze on his or her credit report each time the consumer receives a summary of the rights relating to credit reports.

Compels a consumer reporting agency to notify the consumer

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 3rd Reading
May 2, 2005

HOUSE
Amended 2nd Reading
April 29, 2005

SENATE
3rd Reading Unamended
April 18, 2005

SENATE
Amended 2nd Reading
April 14, 2005

within 5 days after releasing credit information that was in violation of a security freeze.

Allows a consumer who had credit information released in violation of a security freeze to bring a private civil right of action against the consumer reporting agency that released the information in violation of the security freeze.

Prohibits a consumer reporting agency from furnishing a consumer's credit header to someone who does not have a permissible basis to obtain the consumer credit header.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-14.3-102, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF THE FOLLOWING NEW
4 SUBSECTIONS to read:

5 **12-14.3-102. Definitions.** As used in this article, unless the
6 context otherwise requires:

7 (9) "PROPER IDENTIFICATION" MEANS INFORMATION GENERALLY
8 DEEMED SUFFICIENT TO IDENTIFY A PERSON. IF THE CONSUMER IS UNABLE
9 TO REASONABLY IDENTIFY HIMSELF OR HERSELF WITH THE INFORMATION
10 DESCRIBED ABOVE, A CONSUMER REPORTING AGENCY MAY REQUIRE
11 ADDITIONAL INFORMATION CONCERNING THE CONSUMER'S EMPLOYMENT
12 AND PERSONAL OR FAMILY HISTORY IN ORDER TO VERIFY HIS OR HER
13 IDENTITY.

14 (10) "REVIEWING THE ACCOUNT" MEANS ACTIVITIES RELATED TO
15 ACCOUNT MAINTENANCE, MONITORING, CREDIT LINE INCREASES, AND
16 ACCOUNT UPGRADES AND ENHANCEMENTS.

17 (11) "SECURITY FREEZE" OR "FREEZE" MEANS A NOTICE PLACED IN
18 A CONSUMER REPORT, AT THE REQUEST OF A CONSUMER AND SUBJECT TO
19 CERTAIN EXCEPTIONS, THAT PROHIBITS THE CONSUMER REPORTING
20 AGENCY FROM RELEASING THE CONSUMER REPORT OR ANY INFORMATION

1 FROM IT WITHOUT THE EXPRESS AUTHORIZATION OF THE CONSUMER.

2 **SECTION 2.** Part 1 of article 14.3 of title 12, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
4 SECTIONS to read:

5 **12-14.3-106.6. Security freeze - timing - covered entities - cost.**

6 (1) (a) A CONSUMER MAY ELECT TO PLACE A SECURITY FREEZE ON HIS OR
7 HER CONSUMER REPORT BY MAKING A REQUEST IN WRITING BY CERTIFIED
8 MAIL TO A CONSUMER REPORTING AGENCY.

9 [REDACTED]

10 (b) EXCEPT AS PROVIDED IN SUBSECTION (11) AND PARAGRAPH (b)
11 OF SUBSECTION (6) OF THIS SECTION, IF A SECURITY FREEZE IS IN PLACE,
12 INFORMATION FROM A CONSUMER REPORT MAY NOT BE RELEASED TO A
13 THIRD PARTY WITHOUT PRIOR, EXPRESS AUTHORIZATION FROM THE
14 CONSUMER.

15 (c) THIS SECTION DOES NOT PREVENT A CONSUMER [REDACTED]
16 REPORTING AGENCY FROM ADVISING A THIRD PARTY THAT A SECURITY
17 FREEZE IS IN EFFECT WITH RESPECT TO THE CONSUMER REPORT.

18 (2) (a) A CONSUMER [REDACTED] REPORTING AGENCY SHALL PLACE A
19 SECURITY FREEZE ON A CONSUMER REPORT NO LATER THAN FIVE BUSINESS
20 DAYS AFTER RECEIVING THE REQUEST FROM THE CONSUMER.

21 (b) THE CONSUMER [REDACTED] REPORTING AGENCY SHALL SEND A
22 WRITTEN CONFIRMATION OF THE SECURITY FREEZE TO THE CONSUMER
23 WITHIN TEN BUSINESS DAYS AND, WITH THE CONFIRMATION, SHALL
24 PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL IDENTIFICATION
25 NUMBER OR PASSWORD TO BE USED BY THE CONSUMER WHEN PROVIDING
26 AUTHORIZATION FOR THE RELEASE OF HIS OR HER CONSUMER REPORT TO
27 A SPECIFIC PARTY OR FOR A SPECIFIC PERIOD OF TIME.

1 (3) IF A CONSUMER WISHES TO ALLOW HIS OR HER CONSUMER
2 REPORT TO BE ACCESSED BY A SPECIFIC PARTY OR FOR A SPECIFIC PERIOD
3 OF TIME WHILE A FREEZE IS IN PLACE, HE OR SHE SHALL CONTACT THE
4 CONSUMER [REDACTED] REPORTING AGENCY, REQUEST THAT THE FREEZE BE
5 TEMPORARILY LIFTED, AND PROVIDE THE FOLLOWING:

6 (a) PROPER IDENTIFICATION;

7 (b) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD
8 PROVIDED BY THE CONSUMER [REDACTED] REPORTING AGENCY PURSUANT TO
9 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION; AND

10 (c) THE PROPER INFORMATION REGARDING THE THIRD PARTY WHO
11 IS TO RECEIVE THE CONSUMER REPORT OR THE TIME PERIOD THAT THE
12 REPORT SHALL BE AVAILABLE TO USERS OF THE CONSUMER REPORT.

13 (4) A CONSUMER [REDACTED] REPORTING AGENCY THAT RECEIVES A
14 REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A FREEZE ON A
15 CONSUMER REPORT PURSUANT TO SUBSECTION (3) OF THIS SECTION, SHALL
16 COMPLY WITH THE REQUEST NO LATER THAN THREE BUSINESS DAYS AFTER
17 RECEIVING THE REQUEST.

18 (5) A CONSUMER [REDACTED] REPORTING AGENCY MAY DEVELOP
19 PROCEDURES INVOLVING THE USE OF TELEPHONE, FAX, INTERNET, OR
20 OTHER ELECTRONIC MEDIA TO RECEIVE AND PROCESS A REQUEST FROM A
21 CONSUMER TO PLACE A FREEZE OR TO TEMPORARILY LIFT A FREEZE ON A
22 CONSUMER REPORT PURSUANT TO SUBSECTION (3) OF THIS SECTION IN AN
23 EXPEDITED MANNER.

24 (6) A CONSUMER [REDACTED] REPORTING AGENCY SHALL REMOVE OR
25 TEMPORARILY LIFT A FREEZE PLACED ON A CONSUMER REPORT ONLY IN
26 THE FOLLOWING CASES:

27 (a) UPON CONSUMER REQUEST, PURSUANT TO SUBSECTION (3) OR

1 (9) OF THIS SECTION; OR

2 (b) IF THE CONSUMER REPORT WAS FROZEN DUE TO A MATERIAL
3 MISREPRESENTATION OF FACT BY THE CONSUMER OR SOMEBODY
4 PURPORTING TO BE THE CONSUMER. IF A CONSUMER REPORTING
5 AGENCY INTENDS TO REMOVE A FREEZE ON A CONSUMER REPORT
6 PURSUANT TO THIS PARAGRAPH (b), THE CONSUMER REPORTING
7 AGENCY SHALL NOTIFY THE CONSUMER IN WRITING PRIOR TO REMOVING
8 THE FREEZE PLACED ON THE CONSUMER REPORT.

9 (7) IF A THIRD PARTY REQUESTS ACCESS TO A CONSUMER
10 REPORT ON WHICH A SECURITY FREEZE IS IN EFFECT, AND THE REQUEST IS
11 IN CONNECTION WITH AN APPLICATION FOR CREDIT OR OTHER USE, AND
12 THE CONSUMER DOES NOT ALLOW HIS OR HER CONSUMER REPORT TO BE
13 ACCESSED BY THAT SPECIFIC PARTY OR DURING THAT PERIOD OF TIME, THE
14 THIRD PARTY MAY TREAT THE APPLICATION AS INCOMPLETE.

15 (8) IF A CONSUMER REQUESTS A SECURITY FREEZE, THE CONSUMER
16 REPORTING AGENCY SHALL DISCLOSE THE PROCESS OF PLACING AND
17 TEMPORARILY LIFTING A FREEZE AND THE PROCESS FOR ALLOWING ACCESS
18 TO INFORMATION FROM THE CONSUMER REPORT TO A SPECIFIC PARTY OR
19 FOR A SPECIFIC PERIOD OF TIME WHILE THE FREEZE IS IN PLACE.

20 (9) A SECURITY FREEZE SHALL REMAIN IN PLACE UNTIL THE
21 CONSUMER REQUESTS THAT THE SECURITY FREEZE BE REMOVED. A
22 CONSUMER REPORTING AGENCY SHALL REMOVE A SECURITY FREEZE
23 WITHIN THREE BUSINESS DAYS OF RECEIVING A REQUEST FOR REMOVAL
24 FROM THE CONSUMER, WHO PROVIDES BOTH OF THE FOLLOWING:

25 (a) PROPER IDENTIFICATION; AND

26 (b) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD
27 PROVIDED BY THE CONSUMER REPORTING AGENCY PURSUANT TO

1 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

2 (10) A CONSUMER [REDACTED] REPORTING AGENCY SHALL REQUIRE
3 PROPER IDENTIFICATION OF THE PERSON MAKING A REQUEST TO PLACE [REDACTED]
4 [REDACTED] A SECURITY FREEZE IN A MANNER CONSISTENT WITH THE
5 REQUIREMENTS OF THIS SECTION.

6 (11) THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO THE
7 USE OF A CONSUMER [REDACTED] REPORT BY OR FOR ANY OF THE FOLLOWING FOR
8 THE PERMISSIBLE PURPOSES SET FORTH IN SECTION 12-14.3-103:

9 (a) A PERSON OR ENTITY, OR A SUBSIDIARY, AFFILIATE, OR AGENT
10 OF THAT PERSON OR ENTITY THAT OWNS A FINANCIAL OBLIGATION OWING
11 BY THE CONSUMER TO THAT PERSON OR ENTITY, [REDACTED] INCLUDING A
12 DEMAND DEPOSIT ACCOUNT, OR TO WHOM THE CONSUMER ISSUED A
13 NEGOTIABLE INSTRUMENT, FOR THE PURPOSES OF REVIEWING THE
14 ACCOUNT OR COLLECTING THE FINANCIAL OBLIGATION OWING FOR THE
15 ACCOUNT, CONTRACT, DEBT, OR NEGOTIABLE INSTRUMENT, AND LAWFUL
16 ASSOCIATED COSTS;

17 (b) AN ASSIGNEE OR A PROSPECTIVE ASSIGNEE OF A FINANCIAL
18 OBLIGATION OWING BY THE CONSUMER TO A PERSON OR ENTITY IN
19 PARAGRAPH (a) OF THIS SUBSECTION (11);

20 (c) A SUBSIDIARY, AFFILIATE, AGENT, ASSIGNEE, OR PROSPECTIVE
21 ASSIGNEE OF A PERSON TO WHOM ACCESS HAS BEEN GRANTED UNDER
22 SUBSECTION (3) OF THIS SECTION FOR PURPOSES OF FACILITATING THE
23 EXTENSION OF CREDIT OR OTHER PERMISSIBLE USE;

24 (d) A STATE OR LOCAL AGENCY, LAW ENFORCEMENT AGENCY,
25 TRIAL COURT, [REDACTED] PRIVATE COLLECTION AGENCY, OR PERSON ACTING
26 PURSUANT TO A COURT ORDER, WARRANT, OR SUBPOENA AUTHORIZING THE
27 USE OF THE CONSUMER REPORT;

1 (e) A CHILD SUPPORT ENFORCEMENT AGENCY ACTING TO ENFORCE
2 CHILD SUPPORT OBLIGATIONS;

3 (f) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR
4 ITS AGENTS OR ASSIGNS ACTING TO INVESTIGATE FRAUD;

5 (g) THE DEPARTMENT OF HUMAN SERVICES OR ITS AGENTS OR
6 ASSIGNEES ACTING TO INVESTIGATE FRAUD;

7 (h) THE DEPARTMENT OF REVENUE OR ITS AGENTS OR ASSIGNS
8 ACTING TO INVESTIGATE OR COLLECT DELINQUENT TAXES OR UNPAID
9 COURT ORDERS OR TO FULFILL ANY OF ITS OTHER STATUTORY
10 RESPONSIBILITIES;

11 (i) THE USE OF CREDIT INFORMATION FOR THE PURPOSES OF
12 PRESCREENING AS PROVIDED FOR BY THE "FAIR CREDIT REPORTING ACT",
13 15 U.S.C. 1681, ET SEQ.;

14 (j) ANY PERSON OR ENTITY ADMINISTERING A CREDIT FILE
15 MONITORING SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS
16 SUBSCRIBED;

17 (k) ANY PERSON OR ENTITY FOR THE PURPOSE OF PROVIDING A
18 CONSUMER WITH A COPY OF HIS OR HER CONSUMER REPORT UPON THE
19 CONSUMER'S REQUEST;

20 _____

21 (l) A PENSION PLAN ACTING TO DETERMINE THE CONSUMER'S
22 ELIGIBILITY FOR PLAN BENEFITS OR PAYMENTS AUTHORIZED BY LAW OR TO
23 INVESTIGATE FRAUD;

24 (m) A PERSON CONDUCTING A PRE-SENTENCE INVESTIGATION IN A
25 CRIMINAL MATTER OR A PROBATION OFFICER USING THIS INFORMATION FOR
26 SUPERVISION OF AN OFFENDER;

27 (n) A COLLECTIONS INVESTIGATOR OR OTHER PERSON ENGAGED IN

1 THE COLLECTING OF FEES, FINES, OR RESTITUTION ASSESSED IN A COURT
2 PROCEEDING;

3 (o) A LICENSED HOSPITAL WITH WHICH THE CONSUMER HAS OR
4 HAD A CONTRACT, OR A DEBTOR-CREDITOR RELATIONSHIP FOR THE
5 PURPOSES OF REVIEWING THE ACCOUNT OR COLLECTING THE FINANCIAL
6 OBLIGATION OWING FOR THE CONTRACT, ACCOUNT, OR DEBT.

7 (p) A LAW ENFORCEMENT AGENCY OR ITS AGENTS ACTING TO
8 INVESTIGATE A CRIME OR CONDUCTING A CRIMINAL BACKGROUND CHECK.

9 (12) (a) FEES FOR REQUESTING A SECURITY FREEZE, TEMPORARILY
10 LIFTING A SECURITY FREEZE, AND PERMANENTLY REMOVING A SECURITY
11 FREEZE FROM CONSUMER REPORTS MAY BE CHARGED ONLY IN
12 ACCORDANCE WITH THIS SUBSECTION.

13 (b) A CONSUMER REPORTING AGENCY MAY NOT CHARGE A FEE FOR
14 A CONSUMER'S FIRST REQUEST TO PLACE A SECURITY FREEZE ON HIS OR
15 HER CONSUMER REPORT.

16 (c) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (a) AND (b) OF THIS
17 SUBSECTION, A CONSUMER REPORTING AGENCY MAY CHARGE A CONSUMER
18 A REASONABLE FEE OF NO MORE THAN TEN DOLLARS FOR:

19 (I) A TEMPORARY LIFT FOR A PERIOD OF TIME OR PERMANENT
20 REMOVAL OF A SECURITY FREEZE FROM THE CONSUMER REPORT; OR

21 (II) A SUBSEQUENT REQUEST FOR A SECURITY FREEZE OF THE
22 CONSUMER REPORT AFTER THE CONSUMER'S FIRST REQUEST FOR A
23 SECURITY FREEZE HAS BEEN PERMANENTLY REMOVED FROM HIS OR HER
24 CONSUMER REPORT.

25 (d) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (a) AND (b) OF THIS
26 SUBSECTION, A CONSUMER REPORTING AGENCY MAY CHARGE A FEE NOT TO
27 EXCEED TWELVE DOLLARS FOR TEMPORARILY LIFTING A SECURITY FREEZE

1 ON THE CONSUMER REPORT FOR A SPECIFIC PARTY.

2 12-14.3-106.7 Notice of rights. (1) AT ANY TIME THAT A
3 CONSUMER IS REQUIRED TO RECEIVE A SUMMARY OF RIGHTS REQUIRED
4 UNDER SECTION 609 OF THE "FAIR CREDIT REPORTING ACT", 15 U.S.C.
5 1681g, AS AMENDED, OR NOTICE PURSUANT TO SECTION 12-14.3-104 (2),
6 THE FOLLOWING NOTICE SHALL BE INCLUDED:

7 STATE CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE.

8 YOU MAY OBTAIN A SECURITY FREEZE ON YOUR
9 CONSUMER REPORT TO PROTECT YOUR PRIVACY AND
10 ENSURE THAT CREDIT IS NOT GRANTED IN YOUR NAME
11 WITHOUT YOUR KNOWLEDGE, EXCEPT AS PROVIDED BY LAW.
12 YOU HAVE A RIGHT TO PLACE A SECURITY FREEZE ON YOUR
13 CONSUMER REPORT TO PROHIBIT A CONSUMER
14 REPORTING AGENCY FROM RELEASING ANY INFORMATION IN
15 YOUR CONSUMER REPORT WITHOUT YOUR EXPRESS
16 AUTHORIZATION OR APPROVAL, EXCEPT AS THE LAW
17 ALLOWS.

18 YOU WILL NOT BE INITIALLY CHARGED TO PLACE A
19 SECURITY FREEZE ON YOUR CONSUMER REPORT. HOWEVER,
20 YOU WILL BE CHARGED A FEE OF NO MORE THAN TEN
21 DOLLARS TO TEMPORARILY LIFT THE FREEZE FOR A PERIOD OF
22 TIME, TO PERMANENTLY REMOVE THE FREEZE FROM YOUR
23 CONSUMER REPORT, OR WHEN YOU MAKE A SUBSEQUENT
24 REQUEST FOR A FREEZE TO BE PLACED ON YOUR CONSUMER
25 REPORT. AS WELL, YOU MAY BE CHARGED A FEE OF NO
26 MORE THAN TWELVE DOLLARS TO TEMPORARILY LIFT THE
27 FREEZE FOR A SPECIFIC PARTY.

1 THE SECURITY FREEZE IS DESIGNED TO PREVENT
2 CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN
3 YOUR NAME WITHOUT YOUR CONSENT. WHEN YOU PLACE A
4 SECURITY FREEZE ON YOUR CONSUMER REPORT, WITHIN
5 FIVE BUSINESS DAYS YOU WILL BE PROVIDED PROCEDURES
6 FOR THE TEMPORARY RELEASE OF YOUR CONSUMER
7 REPORT TO A SPECIFIC PARTY OR PARTIES OR FOR A PERIOD
8 OF TIME AFTER THE SECURITY FREEZE IS IN PLACE. TO
9 PROVIDE THAT AUTHORIZATION, YOU MUST CONTACT THE
10 CONSUMER REPORTING AGENCY AND PROVIDE THE PROPER
11 INFORMATION REGARDING THE THIRD PARTY OR PARTIES
12 WHO ARE TO RECEIVE THE CONSUMER REPORT OR THE
13 PERIOD OF TIME FOR WHICH THE REPORT SHALL BE
14 AVAILABLE TO USERS OF THE CONSUMER REPORT.

15 A CONSUMER REPORTING AGENCY THAT RECEIVES A
16 REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A
17 SECURITY FREEZE ON A CONSUMER REPORT SHALL COMPLY
18 WITH THE REQUEST NO LATER THAN THREE BUSINESS DAYS
19 AFTER RECEIVING THE REQUEST.

20 A SECURITY FREEZE DOES NOT APPLY TO
21 CIRCUMSTANCES WHERE YOU HAVE AN EXISTING ACCOUNT
22 RELATIONSHIP, AND A COPY OF YOUR REPORT IS REQUESTED
23 BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES
24 FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION,
25 FRAUD CONTROL OR SIMILAR ACTIVITIES.

26 YOU SHOULD BE AWARE THAT USING A SECURITY
27 FREEZE TO TAKE CONTROL OVER WHO GAINS ACCESS TO THE

1 PERSONAL AND FINANCIAL INFORMATION IN YOUR
2 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR
3 PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT
4 REQUEST OR APPLICATION YOU MAKE REGARDING NEW
5 LOANS, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
6 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,
7 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES,
8 DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION,
9 OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT
10 AT THE POINT OF SALE. YOU SHOULD PLAN AHEAD AND LIFT
11 A SECURITY FREEZE EITHER COMPLETELY IF YOU ARE
12 SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN
13 CREDITOR A FEW DAYS BEFORE ACTUALLY APPLYING FOR
14 NEW CREDIT.

15 YOU HAVE THE RIGHT TO BRING A CIVIL ACTION OR
16 SUBMIT TO BINDING ARBITRATION AGAINST A CONSUMER
17 REPORTING AGENCY TO ENFORCE AN OBLIGATION UNDER
18 THE SECURITY FREEZE LAW AFTER FOLLOWING SPECIFIED
19 DISPUTE PROCEDURES AND HAVING RECEIVED THE
20 NECESSARY NOTICE.

21 **12-14.3-106.8. Security freeze - prohibition of changing official**
22 **information in credit report.** IF A SECURITY FREEZE IS IN PLACE, A
23 CONSUMER REPORTING AGENCY SHALL NOT CHANGE ANY OF THE
24 FOLLOWING OFFICIAL INFORMATION IN A CONSUMER REPORT
25 WITHOUT SENDING A WRITTEN NOTICE OF THE CHANGE TO THE CONSUMER
26 WITHIN THIRTY DAYS OF THE CHANGE BEING POSTED TO THE CONSUMER'S
27 FILE: NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER, AND ADDRESS.

1 WRITTEN NOTICE IS NOT REQUIRED FOR TECHNICAL MODIFICATIONS OF A
2 CONSUMER'S OFFICIAL INFORMATION, INCLUDING NAME AND STREET
3 ABBREVIATIONS, COMPLETE SPELLINGS, OR TRANSPOSITION OF NUMBERS
4 OR LETTERS. IN THE CASE OF AN ADDRESS CHANGE, THE WRITTEN NOTICE
5 SHALL BE SENT TO BOTH THE NEW ADDRESS AND THE FORMER ADDRESS.

6 **12-14.3-106.9. Security freeze - exemptions.** (1) SECTIONS
7 12-14.3-106.6 TO 12-14.3-106.8 SHALL NOT APPLY TO A CONSUMER
8 REPORTING AGENCY THAT ACTS ONLY AS A RESELLER OF CREDIT
9 INFORMATION BY ASSEMBLING AND MERGING INFORMATION CONTAINED
10 IN THE DATABASE OF ANOTHER CONSUMER REPORTING AGENCY OR
11 MULTIPLE CONSUMER REPORTING AGENCIES, AND THAT DOES NOT
12 MAINTAIN A PERMANENT DATABASE OF CREDIT INFORMATION FROM WHICH
13 NEW CONSUMER REPORTS ARE PRODUCED. HOWEVER, A CONSUMER
14 REPORTING AGENCY SHALL HONOR ANY SECURITY FREEZE PLACED
15 ON A CONSUMER REPORT BY ANOTHER CONSUMER REPORTING
16 AGENCY.

17 (2) THE FOLLOWING ENTITIES ARE NOT REQUIRED TO PLACE IN A
18 CONSUMER REPORT A SECURITY FREEZE:

19 (a) A CHECK SERVICE OR FRAUD PREVENTION SERVICE THAT ISSUES
20 REPORTS ON INCIDENTS OF FRAUD OR AUTHORIZATIONS FOR THE PURPOSE
21 OF APPROVING OR PROCESSING NEGOTIABLE INSTRUMENTS, ELECTRONIC
22 FUNDS TRANSFERS, OR SIMILAR METHODS OF PAYMENTS;

23 (b) A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT
24 ISSUES REPORTS REGARDING ACCOUNT CLOSURES DUE TO FRAUD,
25 SUBSTANTIAL OVERDRAFTS, OR AUTOMATIC TELLER MACHINE ABUSE OR
26 SIMILAR NEGATIVE INFORMATION REGARDING A CONSUMER TO INQUIRING
27 BANKS OR OTHER FINANCIAL INSTITUTIONS FOR USE ONLY IN REVIEWING

1 A CONSUMER REQUEST FOR A DEPOSIT ACCOUNT AT THE INQUIRING BANK
2 OR FINANCIAL INSTITUTION;

3 (C) A FRAUD PREVENTION SERVICES COMPANY ISSUING REPORTS TO
4 PREVENT OR INVESTIGATE FRAUD.

5 **SECTION 3.** 12-14.3-107, Colorado Revised Statutes, is
6 amended to read:

7 **12-14.3-107. Consumer's right to file action in court or**
8 **arbitrate disputes.** An action to enforce any obligation of a consumer
9 reporting agency to a consumer under this article may be brought in any
10 court of competent jurisdiction as provided by the federal "Fair Credit
11 Reporting Act" or submitted to binding arbitration after the consumer has
12 followed all dispute procedures in section 12-14.3-106 and has received
13 the notice specified in subsection (6) of said section, or has followed all
14 of the block procedures in section 12-14.3-106.5, OR HAS FOLLOWED ALL
15 OF THE FREEZE PROCEDURES IN SECTION 12-14.3-106.6, in the manner set
16 forth in the rules of the American arbitration association to determine
17 whether the consumer reporting agency met its obligations under this
18 article. No decision by an arbitrator pursuant to this section shall affect
19 the validity of any obligations or debts owed to any party. A successful
20 party to any such arbitration proceeding shall be compensated for the
21 costs and attorney fees of the proceeding as determined by the court or
22 arbitration. No consumer may submit more than one action to arbitration
23 against any consumer reporting agency during any
24 one-hundred-twenty-day period. The results of an arbitration action
25 brought against a consumer reporting agency doing business in this state
26 shall be communicated in a timely manner with all other consumer
27 reporting agencies doing business in this state. If, as a result of an

1 arbitration a determination is made in favor of the consumer, any adverse
2 information in such consumer's file or record shall be blocked, removed,
3 or stricken in a timely manner, OR THE CONSUMER REPORT SHALL BE
4 FROZEN WITHIN FIVE DAYS OF RECEIPT OF SUCH DETERMINATION BY THE
5 CONSUMER REPORTING AGENCY. If such adverse information is not so
6 blocked, removed, or stricken, OR THE FILE IS NOT FROZEN, the consumer
7 may bring an action against the noncomplying agency pursuant to this
8 section notwithstanding the one-hundred-twenty-day waiting period.

9 **SECTION 4.** 12-14.3-108, Colorado Revised Statutes, is
10 amended to read:

11 **12-14.3-108. Violations.** (1) Any consumer reporting agency
12 that willfully violates any provision of this article, or the federal "Fair
13 Credit Reporting Act", sec. 1681c, as amended, shall be liable for three
14 times the amount of actual damages or one thousand dollars FOR A
15 VIOLATION OF SECTION 12-14.3-106.6, OR for each inaccurate or
16 unblocked entry in the consumer's file that was disputed or alleged to be
17 unauthorized in accordance with section 12-14.3-106.5 by the consumer,
18 whichever is greater, reasonable attorney fees, and costs.

19 (2) (a) Any consumer reporting agency that negligently violates
20 this article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
21 amended, shall be liable for the greater of actual damages or one
22 thousand dollars for each VIOLATION OF SECTION 12-14.3-106.6, OR FOR
23 EACH inaccurate or unblocked entry in the consumer's file that was
24 disputed or alleged to be unauthorized in accordance with section
25 12-14.3-106.5 by the consumer ~~and~~ THAT affects the consumer's
26 creditworthiness, as defined in section 12-14.3-102 (4.5), PLUS reasonable
27 attorney fees, and costs, if within thirty days after receiving notice of

1 dispute from a consumer, in accordance with section 12-14.3-106, the
2 consumer reporting agency does not correct the complained of items or
3 activities and does not send the consumer and, upon request of the
4 consumer, any person who has requested the consumer information,
5 written notification of such corrective action, in accordance with section
6 12-14.3-106 (6), OR SECTION 12-14.3-106.6 or if, within thirty days after
7 receiving a copy of a police report alleging, or a certified court order
8 finding, unauthorized activity, the consumer reporting agency does not
9 block the information in accordance with section 12-14.3-106.5.

10 (b) Any consumer reporting agency that negligently violates this
11 article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
12 amended, shall be liable for the greater of actual damages or one
13 thousand dollars for all VIOLATIONS OF SECTION 12-14.3-106.6 OR ALL
14 inaccurate or unblocked entries in the consumer's file that were disputed
15 or alleged to be unauthorized in accordance with section 12-14.3-106.5
16 OR SECTION 12-14.3-106.6 by the consumer but THAT did not affect the
17 consumer's creditworthiness, PLUS reasonable attorney fees, and costs, if
18 within thirty days after receiving notice of dispute from a consumer, in
19 accordance with section 12-14.3-106, the consumer reporting agency
20 does not correct the complained of items or activities and does not send
21 the consumer and, if requested by the consumer, any person who has
22 requested the consumer information, written notification of such
23 corrective action, in accordance with section 12-14.3-106 (6) OR SECTION
24 12-14.3-106.6 or if, within thirty days after receiving a copy of a police
25 report alleging, or a certified court order finding, unauthorized activity,
26 the consumer reporting agency does not block the information in
27 accordance with section 12-14.3-106.5.

1 (3) In addition to the damages assessed under subsections (1) and
2 (2) of this section, if, ten days after the entry of any judgment for
3 damages, the consumer's file is still not corrected, or blocked, OR FROZEN
4 by the consumer reporting agency, such assessed damages shall be
5 increased to one thousand dollars per day per UNFROZEN CONSUMER
6 REPORT OR inaccurate or unblocked entry that remains in the consumer's
7 file until the inaccurate entry is corrected or blocked, OR THE CONSUMER
8 REPORT IS FROZEN.

9 **SECTION 5.** 7-90-306, Colorado Revised Statutes, is amended
10 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
11 read:

12 **7-90-306. Filing duty of secretary of state - manner of filing.**

13 (5) (a) NOTWITHSTANDING THE FOREGOING OR ANY OTHER PROVISION OF
14 LAW, THE SECRETARY OF STATE MAY, UPON RECEIPT OF A WRITTEN
15 REQUEST FROM AND A SHOWING OF GOOD CAUSE BY AN AUTHORIZED
16 PERSON SUPPORTED BY SUCH VALIDATING, VERIFYING, AND
17 AUTHENTICATING DOCUMENTS AS THE SECRETARY OF STATE MAY REQUIRE,
18 REMOVE PERSONAL IDENTIFYING INFORMATION FROM THE PUBLICLY
19 ACCESSIBLE DOCUMENTS AND OTHER RECORDS OF THE SECRETARY OF
20 STATE MAINTAINED PURSUANT TO THIS SECTION WHERE SUCH
21 INFORMATION IS NOT REQUIRED BY LAW TO BE INCLUDED IN SUCH
22 DOCUMENTS AND RECORDS.

23 (b) A DOCUMENT OR RECORD FROM WHICH THE SECRETARY OF
24 STATE REMOVES PERSONAL IDENTIFYING INFORMATION PURSUANT TO
25 PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL NOT BE RENDERED
26 INSUFFICIENT OR INEFFECTIVE BY SUCH REMOVAL NOTWITHSTANDING ANY
27 OTHER PROVISION OF LAW.

1 (c) THE SECRETARY OF STATE MAY RETAIN THE ORIGINAL OR A
2 COPY OF A DOCUMENT OR RECORD THAT CONTAINS PERSONAL IDENTIFYING
3 INFORMATION, BUT SUCH A DOCUMENT OR RECORD SHALL BE OPEN FOR
4 INSPECTION, AND COPIES OR PRINTOUTS OF THE DOCUMENT OR RECORD OR
5 INFORMATION FROM THE DOCUMENT OR RECORD SHALL BE FURNISHED
6 ONLY UPON APPLICATION TO THE SECRETARY OF STATE AND ONLY FOR
7 GOOD CAUSE SHOWN NOTWITHSTANDING ANY PROVISION OF PART 2 OF
8 ARTICLE 72 OF TITLE 24, C.R.S., OR ANY OTHER PROVISION OF LAW.

9 (6) FOR THE PURPOSES OF THIS SECTION, "PERSONAL IDENTIFYING
10 INFORMATION" MEANS INFORMATION ABOUT AN INDIVIDUAL THAT COULD
11 REASONABLY BE USED TO IDENTIFY SUCH INDIVIDUAL, INCLUDING, BUT
12 NOT LIMITED TO:

13 (a) A SOCIAL SECURITY NUMBER;

14 (b) A PERSONAL IDENTIFICATION NUMBER;

15 (c) A PASSWORD;

16 (d) A PASS CODE;

17 (e) AN OFFICIAL STATE- OR GOVERNMENT-ISSUED DRIVER'S
18 LICENSE OR IDENTIFICATION CARD NUMBER;

19 (f) A GOVERNMENT PASSPORT NUMBER;

20 (g) BIOMETRIC DATA;

21 (h) AN EMPLOYER, STUDENT, OR MILITARY IDENTIFICATION
22 NUMBER;

23 (i) A FINANCIAL TRANSACTION DEVICE, AS SUCH TERM IS DEFINED
24 IN SECTION 18- 5-701 (3), C.R.S.;

25 (j) A PERSONAL IDENTIFICATION CODE, AS SUCH TERM IS DEFINED
26 IN SECTION 18-5-701 (5), C.R.S.;

27 (k) OTHER PERSONAL FINANCIAL INFORMATION;

1 (l) DATE OF BIRTH; OR

2 (m) NAMES OF RELATIVES.

3 **SECTION 6.** Part 1 of article 5 of title 18, Colorado Revised
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
5 read:

6 **18-5-119. Theft of personal identifying information.** (1) (a) A
7 PERSON WHO, WITH THE INTENT TO DEFRAUD ANOTHER PERSON OF
8 PERSONAL IDENTIFYING INFORMATION, UNLAWFULLY ENTERS A TRASH
9 RECEPTACLE AND TAKES DOCUMENTS FROM THAT TRASH RECEPTACLE
10 COMMITS THEFT OF PERSONAL IDENTIFYING INFORMATION.

11 (b) FOR PURPOSES OF THIS SECTION, "PERSONAL IDENTIFYING
12 INFORMATION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
13 6-1-713 (2), C.R.S.; EXCEPT THAT "PERSONAL IDENTIFYING INFORMATION"
14 SHALL NOT INCLUDE A FINANCIAL TRANSACTION DEVICE, AS DEFINED IN
15 SECTION 18-5-701 (3).

16 (2) THEFT OF PERSONAL IDENTIFYING INFORMATION IS A CLASS 1
17 MISDEMEANOR.

18 **SECTION 7. Effective date - applicability.** (1) Sections 5 and
19 8 of this act shall take effect upon passage, section 6 of this act shall take
20 effect on July 1, 2005, and shall apply to offenses committed on or after
21 said date, and the remainder of this act shall take effect on July 1, 2006.

22 (2) However, if a referendum petition is filed against this act or
23 an item, section, or part, other than section 5 or 6, of this act during the
24 90-day period after final adjournment of the general assembly that is
25 allowed for submitting a referendum petition pursuant to article V,
26 section 1 (3) of the state constitution, then the act, item, section, or part,
27 shall not take effect unless approved by the people at a biennial regular

1 general election and shall take effect on the date specified in subsection
2 (1) or on the date of the official declaration of the vote thereon by
3 proclamation of the governor, whichever is later.

4 **SECTION 8. Safety clause.** The general assembly hereby finds,
5 determines, and declares that sections 5 and 6 of this act are necessary for
6 the immediate preservation of the public peace, health, and safety.