

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.

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 CREDIT REPORT BY MAKING A REQUEST IN WRITING BY CERTIFIED MAIL
8 TO A CONSUMER REPORTING AGENCY.

9 [REDACTED]
10 (b) IF A SECURITY FREEZE IS IN PLACE, INFORMATION FROM A
11 CONSUMER REPORT MAY NOT BE RELEASED TO A THIRD PARTY WITHOUT
12 PRIOR, EXPRESS AUTHORIZATION FROM THE CONSUMER.

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

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

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

26 (3) IF A CONSUMER WISHES TO ALLOW HIS OR HER CREDIT REPORT
27 TO BE ACCESSED BY A SPECIFIC PARTY OR FOR A SPECIFIC PERIOD OF TIME

1 WHILE A FREEZE IS IN PLACE, HE OR SHE SHALL CONTACT THE CONSUMER
2 REPORTING AGENCY, REQUEST THAT THE FREEZE BE TEMPORARILY
3 LIFTED, AND PROVIDE THE FOLLOWING:

4 (a) PROPER IDENTIFICATION;

5 (b) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD
6 PROVIDED BY THE CONSUMER REPORTING AGENCY PURSUANT TO
7 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION; AND

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

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

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

22 (6) A CONSUMER REPORTING AGENCY SHALL REMOVE OR
23 TEMPORARILY LIFT A FREEZE PLACED ON A CONSUMER REPORT ONLY IN
24 THE FOLLOWING CASES:

25 (a) UPON CONSUMER REQUEST, PURSUANT TO SUBSECTION (3) OR
26 (9) OF THIS SECTION; OR

27 (b) IF THE CONSUMER REPORT WAS FROZEN DUE TO A MATERIAL

1 MISREPRESENTATION OF FACT BY THE CONSUMER. IF A CONSUMER
2 REPORTING AGENCY INTENDS TO REMOVE A FREEZE ON A CONSUMER
3 REPORT PURSUANT TO THIS PARAGRAPH (b), THE CONSUMER
4 REPORTING AGENCY SHALL NOTIFY THE CONSUMER IN WRITING PRIOR TO
5 REMOVING THE FREEZE PLACED ON THE CONSUMER REPORT.

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

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

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

22 (a) PROPER IDENTIFICATION; AND

23 (b) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD
24 PROVIDED BY THE CONSUMER REPORTING AGENCY PURSUANT TO
25 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

26 (10) A CONSUMER REPORTING AGENCY SHALL REQUIRE
27 PROPER IDENTIFICATION OF THE PERSON MAKING A REQUEST TO PLACE OR

1 REMOVE A SECURITY FREEZE.

2 (11) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE
3 USE OF A CONSUMER [REDACTED] REPORT BY OR FOR ANY OF THE FOLLOWING:

4 (a) A PERSON OR ENTITY, OR A SUBSIDIARY, AFFILIATE, OR AGENT
5 OF THAT PERSON OR ENTITY, OR AN ASSIGNEE OF A FINANCIAL OBLIGATION
6 OWING BY THE CONSUMER TO THAT PERSON OR ENTITY, OR A PROSPECTIVE
7 ASSIGNEE OF A FINANCIAL OBLIGATION OWING BY THE CONSUMER TO THAT
8 PERSON OR ENTITY IN CONJUNCTION WITH THE PROPOSED PURCHASE OF
9 THE FINANCIAL OBLIGATION, WITH WHICH THE CONSUMER HAS OR HAD
10 PRIOR TO ASSIGNMENT AN ACCOUNT OR CONTRACT, INCLUDING A DEMAND
11 DEPOSIT ACCOUNT, OR TO WHOM THE CONSUMER ISSUED A NEGOTIABLE
12 INSTRUMENT, FOR THE PURPOSES OF REVIEWING THE ACCOUNT OR
13 COLLECTING THE FINANCIAL OBLIGATION OWING FOR THE ACCOUNT,
14 CONTRACT, OR NEGOTIABLE INSTRUMENT;

15 (b) A SUBSIDIARY, AFFILIATE, AGENT, ASSIGNEE, OR PROSPECTIVE
16 ASSIGNEE OF A PERSON TO WHOM ACCESS HAS BEEN GRANTED UNDER
17 SUBSECTION (3) OF THIS SECTION FOR PURPOSES OF FACILITATING THE
18 EXTENSION OF CREDIT OR OTHER PERMISSIBLE USE;

19 (c) A STATE OR LOCAL AGENCY, LAW ENFORCEMENT AGENCY,
20 TRIAL COURT, OR PRIVATE COLLECTION AGENCY ACTING PURSUANT TO A
21 COURT ORDER, WARRANT, OR SUBPOENA;

22 (d) A CHILD SUPPORT ENFORCEMENT AGENCY ACTING TO ENFORCE
23 CHILD SUPPORT OBLIGATIONS;

24 (e) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR
25 ITS AGENTS OR ASSIGNS ACTING TO INVESTIGATE FRAUD;

26 (f) THE DEPARTMENT OF HUMAN SERVICES OR ITS AGENTS OR
27 ASSIGNEES ACTING TO INVESTIGATE FRAUD;

1 (g) THE DEPARTMENT OF REVENUE OR ITS AGENTS OR ASSIGNS
2 ACTING TO INVESTIGATE OR COLLECT DELINQUENT TAXES OR UNPAID
3 COURT ORDERS OR TO FULFILL ANY OF ITS OTHER STATUTORY
4 RESPONSIBILITIES;

5 (h) THE USE OF CREDIT INFORMATION FOR THE PURPOSES OF
6 PRESCREENING AS PROVIDED FOR BY THE "FAIR CREDIT REPORTING ACT",
7 15 U.S.C. 1681, ET SEQ.;

8 (i) ANY PERSON OR ENTITY ADMINISTERING A CREDIT FILE
9 MONITORING SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS
10 SUBSCRIBED;

11 (j) ANY PERSON OR ENTITY FOR THE PURPOSE OF PROVIDING A
12 CONSUMER WITH A COPY OF HIS OR HER CONSUMER REPORT UPON THE
13 CONSUMER'S REQUEST;

14 (k) A PERSON REQUESTING THE CONSUMER REPORT FOR USE BY AN
15 INSURANCE BUSINESS TO SET A RATE, ADJUST A RATE, OR UNDERWRITE FOR
16 INSURANCE PURPOSES PURSUANT TO SECTION 12-14.3-103;

17 (l) A PUBLIC PENSION PLAN ACTING TO DETERMINE THE
18 CONSUMER'S ELIGIBILITY FOR PLAN BENEFITS OR PAYMENTS AUTHORIZED
19 BY LAW OR TO INVESTIGATE FRAUD;

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

23 (n) A COLLECTIONS INVESTIGATOR OR OTHER PERSON ENGAGED IN
24 THE COLLECTING OF FEES, FINES, OR RESTITUTION ASSESSED IN A COURT
25 PROCEEDING; OR

26 (o) A LAW ENFORCEMENT AGENCY OR ITS AGENTS ACTING TO
27 INVESTIGATE A CRIME OR CONDUCTING A CRIMINAL BACKGROUND CHECK.

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

5 (b) A CONSUMER REPORTING AGENCY MAY NOT CHARGE A FEE FOR
6 A CONSUMER'S FIRST REQUEST TO PLACE A SECURITY FREEZE ON HIS OR
7 HER CREDIT REPORT.

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

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

13 (II) A SUBSEQUENT REQUEST FOR A SECURITY FREEZE OF THE
14 CONSUMER REPORT AFTER THE CONSUMER'S FIRST REQUEST FOR A
15 SECURITY FREEZE HAS BEEN PERMANENTLY REMOVED FROM HIS OR HER
16 CONSUMER REPORT.

17 (d) EXCEPT AS PROVIDED FOR IN PARAGRAPHS (a) AND (b) OF THIS
18 SUBSECTION, A CONSUMER REPORTING AGENCY MAY CHARGE A FEE NOT TO
19 EXCEED TWELVE DOLLARS FOR TEMPORARILY LIFTING A SECURITY FREEZE
20 ON THE CONSUMER REPORT FOR A SPECIFIC PARTY.

21 **12-14.3-106.7 Notice of rights.** (1) AT ANY TIME THAT A
22 CONSUMER IS REQUIRED TO RECEIVE A SUMMARY OF RIGHTS REQUIRED
23 UNDER SECTION 609 OF THE "FAIR CREDIT REPORTING ACT" OR UNDER
24 STATE LAW, THE FOLLOWING NOTICE SHALL BE INCLUDED:

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

26 YOU MAY OBTAIN A SECURITY FREEZE ON YOUR
27 CONSUMER REPORT AT NO CHARGE TO PROTECT YOUR

1 PRIVACY AND ENSURE THAT CREDIT IS NOT GRANTED IN
2 YOUR NAME WITHOUT YOUR KNOWLEDGE. YOU HAVE A
3 RIGHT TO PLACE A SECURITY FREEZE ON YOUR CONSUMER
4 REPORT PURSUANT TO STATE LAW.

5 THE SECURITY FREEZE WILL PROHIBIT A CONSUMER
6 REPORTING AGENCY FROM RELEASING ANY INFORMATION IN
7 YOUR CONSUMER REPORT WITHOUT YOUR EXPRESS
8 AUTHORIZATION OR APPROVAL.

9 THE SECURITY FREEZE IS DESIGNED TO PREVENT
10 CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN
11 YOUR NAME WITHOUT YOUR CONSENT. WHEN YOU PLACE A
12 SECURITY FREEZE ON YOUR CONSUMER REPORT, WITHIN
13 FIVE BUSINESS DAYS YOU WILL BE PROVIDED A PERSONAL
14 IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU
15 CHOOSE TO REMOVE THE SECURITY FREEZE ON YOUR
16 CONSUMER REPORT OR TO TEMPORARILY AUTHORIZE THE
17 RELEASE OF YOUR CONSUMER REPORT TO A SPECIFIC PARTY
18 OR PARTIES OR FOR A PERIOD OF TIME AFTER THE SECURITY
19 FREEZE IS IN PLACE. TO PROVIDE THAT AUTHORIZATION,
20 YOU MUST CONTACT THE CONSUMER REPORTING AGENCY
21 AND PROVIDE ALL OF THE FOLLOWING: THE UNIQUE
22 PERSONAL IDENTIFICATION NUMBER OR PASSWORD
23 PROVIDED BY THE CONSUMER REPORTING AGENCY; PROPER
24 IDENTIFICATION TO VERIFY YOUR IDENTITY; AND THE
25 PROPER INFORMATION REGARDING THE THIRD PARTY OR
26 PARTIES WHO ARE TO RECEIVE THE CONSUMER REPORT OR
27 THE PERIOD OF TIME FOR WHICH THE REPORT SHALL BE

1 AVAILABLE TO USERS OF THE CONSUMER REPORT.

2 A CONSUMER REPORTING AGENCY THAT RECEIVES A
3 REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A
4 SECURITY FREEZE ON A CONSUMER REPORT SHALL COMPLY
5 WITH THE REQUEST NO LATER THAN THREE BUSINESS DAYS
6 AFTER RECEIVING THE REQUEST.

7 A SECURITY FREEZE DOES NOT APPLY TO
8 CIRCUMSTANCES WHERE YOU HAVE AN EXISTING ACCOUNT
9 RELATIONSHIP, AND A COPY OF YOUR REPORT IS REQUESTED
10 BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES
11 FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION,
12 FRAUD CONTROL OR SIMILAR ACTIVITIES.

13 YOU SHOULD BE AWARE THAT USING A SECURITY
14 FREEZE TO TAKE CONTROL OVER WHO GAINS ACCESS TO THE
15 PERSONAL AND FINANCIAL INFORMATION IN YOUR CREDIT
16 REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE
17 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR
18 APPLICATION YOU MAKE REGARDING NEW LOANS, CREDIT,
19 MORTGAGE, INSURANCE, GOVERNMENT SERVICES OR
20 PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
21 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE,
22 INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES,
23 INCLUDING AN EXTENSION OF CREDIT AT THE POINT OF SALE.

24 YOU SHOULD PLAN AHEAD AND LIFT A SECURITY FREEZE
25 EITHER COMPLETELY IF YOU ARE SHOPPING AROUND, OR
26 SPECIFICALLY FOR A CERTAIN CREDITOR A FEW DAYS
27 BEFORE ACTUALLY APPLYING FOR NEW CREDIT.

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12-14.3-106.8. Security freeze - prohibition of changing official information in credit report. IF A SECURITY FREEZE IS IN PLACE, A CONSUMER REPORTING AGENCY SHALL NOT CHANGE ANY OF THE FOLLOWING OFFICIAL INFORMATION IN A CONSUMER REPORT WITHOUT SENDING A WRITTEN NOTICE OF THE CHANGE TO THE CONSUMER WITHIN THIRTY DAYS OF THE CHANGE BEING POSTED TO THE CONSUMER'S FILE: NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER, AND ADDRESS. WRITTEN NOTICE IS NOT REQUIRED FOR TECHNICAL MODIFICATIONS OF A CONSUMER'S OFFICIAL INFORMATION, INCLUDING NAME AND STREET ABBREVIATIONS, COMPLETE SPELLINGS, OR TRANSPOSITION OF NUMBERS OR LETTERS. IN THE CASE OF AN ADDRESS CHANGE, THE WRITTEN NOTICE SHALL BE SENT TO BOTH THE NEW ADDRESS AND THE FORMER ADDRESS.

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

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

(a) A CHECK SERVICES OR FRAUD PREVENTION SERVICES COMPANY

1 THAT ISSUES REPORTS ON INCIDENTS OF FRAUD OR AUTHORIZATIONS FOR
2 THE PURPOSE OF APPROVING OR PROCESSING NEGOTIABLE INSTRUMENTS,
3 ELECTRONIC FUNDS TRANSFERS, OR SIMILAR METHODS OF PAYMENTS;

4 (b) A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT
5 ISSUES REPORTS REGARDING ACCOUNT CLOSURES DUE TO FRAUD,
6 SUBSTANTIAL OVERDRAFTS, OR AUTOMATIC TELLER MACHINE ABUSE OR
7 SIMILAR NEGATIVE INFORMATION REGARDING A CONSUMER TO INQUIRING
8 BANKS OR OTHER FINANCIAL INSTITUTIONS FOR USE ONLY IN REVIEWING
9 A CONSUMER REQUEST FOR A DEPOSIT ACCOUNT AT THE INQUIRING BANK
10 OR FINANCIAL INSTITUTION;

11 (c) A FRAUD PREVENTION SERVICES COMPANY ISSUING REPORTS TO
12 PREVENT OR INVESTIGATE FRAUD.

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

15 **12-14.3-107. Consumer's right to file action in court or**
16 **arbitrate disputes.** An action to enforce any obligation of a consumer
17 reporting agency to a consumer under this article may be brought in any
18 court of competent jurisdiction as provided by the federal "Fair Credit
19 Reporting Act" or submitted to binding arbitration after the consumer has
20 followed all dispute procedures in section 12-14.3-106 and has received
21 the notice specified in subsection (6) of said section, or has followed all
22 of the block procedures in section 12-14.3-106.5, OR HAS FOLLOWED ALL
23 OF THE FREEZE PROCEDURES IN SECTION 12-14.3-106.6, in the manner set
24 forth in the rules of the American arbitration association to determine
25 whether the consumer reporting agency met its obligations under this
26 article. No decision by an arbitrator pursuant to this section shall affect
27 the validity of any obligations or debts owed to any party. A successful

1 party to any such arbitration proceeding shall be compensated for the
2 costs and attorney fees of the proceeding as determined by the court or
3 arbitration. No consumer may submit more than one action to arbitration
4 against any consumer reporting agency during any
5 one-hundred-twenty-day period. The results of an arbitration action
6 brought against a consumer reporting agency doing business in this state
7 shall be communicated in a timely manner with all other consumer
8 reporting agencies doing business in this state. If, as a result of an
9 arbitration a determination is made in favor of the consumer, any adverse
10 information in such consumer's file or record shall be blocked, removed,
11 or stricken in a timely manner, OR THE CONSUMER REPORT SHALL BE
12 FROZEN WITHIN FIVE DAYS OF RECEIPT OF SUCH DETERMINATION BY THE
13 CONSUMER REPORTING AGENCY. If such adverse information is not so
14 blocked, removed, or stricken, OR THE FILE IS NOT FROZEN, the consumer
15 may bring an action against the noncomplying agency pursuant to this
16 section notwithstanding the one-hundred-twenty-day waiting period.

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

19 **12-14.3-108. Violations.** (1) Any consumer reporting agency
20 that willfully violates any provision of this article, or the federal "Fair
21 Credit Reporting Act", sec. 1681c, as amended, shall be liable for three
22 times the amount of actual damages or one thousand dollars FOR A
23 VIOLATION OF SECTION 12-14.3-106.6, OR for each inaccurate or
24 unblocked entry in the consumer's file that was disputed or alleged to be
25 unauthorized in accordance with section 12-14.3-106.5 by the consumer,
26 whichever is greater, reasonable attorney fees, and costs.

27 (2) (a) Any consumer reporting agency that negligently violates

1 this article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
2 amended, shall be liable for the greater of actual damages or one
3 thousand dollars for each VIOLATION OF SECTION 12-14.3-106.6, OR FOR
4 EACH inaccurate or unblocked entry in the consumer's file that was
5 disputed or alleged to be unauthorized in accordance with section
6 12-14.3-106.5 by the consumer ~~and~~ THAT affects the consumer's
7 creditworthiness, as defined in section 12-14.3-102 (4.5), PLUS reasonable
8 attorney fees, and costs, if within thirty days after receiving notice of
9 dispute from a consumer, in accordance with section 12-14.3-106, the
10 consumer reporting agency does not correct the complained of items or
11 activities and does not send the consumer and, upon request of the
12 consumer, any person who has requested the consumer information,
13 written notification of such corrective action, in accordance with section
14 12-14.3-106 (6), OR SECTION 12-14.3-106.6 or if, within thirty days after
15 receiving a copy of a police report alleging, or a certified court order
16 finding, unauthorized activity, the consumer reporting agency does not
17 block the information in accordance with section 12-14.3-106.5.

18 (b) Any consumer reporting agency that negligently violates this
19 article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
20 amended, shall be liable for the greater of actual damages or one
21 thousand dollars for all VIOLATIONS OF SECTION 12-14.3-106.6 OR ALL
22 inaccurate or unblocked entries in the consumer's file that were disputed
23 or alleged to be unauthorized in accordance with section 12-14.3-106.5
24 OR SECTION 12-14.3-106.6 by the consumer ~~but~~ THAT did not affect the
25 consumer's creditworthiness, PLUS reasonable attorney fees, and costs, if
26 within thirty days after receiving notice of dispute from a consumer, in
27 accordance with section 12-14.3-106, the consumer reporting agency

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

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

17 **SECTION 5. Effective date.** (1) This act shall take effect July
18 1, 2006.

19 (2) However, if a referendum petition is filed against this act or
20 an item, section, or part of this act during the 90-day period after final
21 adjournment of the general assembly that is allowed for submitting a
22 referendum petition pursuant to article V, section 1 (3) of the state
23 constitution, then the act, item, section, or part, shall not take effect
24 unless approved by the people at a biennial regular general election and
25 shall take effect on the date specified in subsection (1) or on the date of
26 the official declaration of the vote thereon by proclamation of the
27 governor, whichever is later.