

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 27, 2005
Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

SB05-137 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 2, strike lines 2 through 20 and substitute
2 the following:

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

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

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

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

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

1 AGENCY FROM RELEASING THE CONSUMER REPORT OR ANY INFORMATION
2 FROM IT WITHOUT THE EXPRESS AUTHORIZATION OF THE CONSUMER."

3 Page 3, strike lines 1 through 3 and substitute the following:

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

7 line 4, strike "**12-14.7-102.**" and substitute "**12-14.3-106.6.**";

8 line 6, strike "BY:" and substitute "BY MAKING A REQUEST IN WRITING BY
9 CERTIFIED MAIL TO A CONSUMER REPORTING AGENCY.";

10 strike lines 7 through 13;

11 line 15, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
12 REPORT";

13 line 17, strike "CREDIT";

14 line 19 strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
15 REPORT";

16 line 20, strike "CREDIT";

17 line 21, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
18 REPORT";

19 line 23, strike "CREDIT".

20 Page 4, line 1, strike "CREDIT" and substitute "CONSUMER REPORT";

21 line 6, strike "CREDIT";

22 line 10, strike "CREDIT";

23 line 13, strike "CREDIT" and substitute "CONSUMER";

24 line 14, strike "CREDIT" and substitute "CONSUMER";

25 line 15, strike "CREDIT";

- 1 line 16, strike "CREDIT" and substitute "CONSUMER";
- 2 line 20, strike "CREDIT" and, strike "SHALL" and substitute "MAY";
- 3 line 23, after "TO", insert "PLACE A FREEZE OR TO" and, strike "CREDIT"
- 4 and substitute "CONSUMER";
- 5 line 25, strike "CREDIT";
- 6 line 26, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
- 7 REPORT".
- 8 Page 5, line 3, strike "CONSUMER'S CREDIT REPORT" and substitute
- 9 "CONSUMER REPORT";
- 10 line 5, strike "CREDIT";
- 11 line 6, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
- 12 REPORT";
- 13 line 7, strike "CREDIT";
- 14 line 8, strike "CONSUMER'S" and substitute "CONSUMER";
- 15 line 9, strike "CREDIT";
- 16 line 10, strike "CREDIT";
- 17 line 13, strike "CREDIT" and substitute "CONSUMER";
- 18 line 17, strike "CREDIT";
- 19 line 19, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
- 20 REPORT";
- 21 line 24, strike "CREDIT".
- 22 Page 6, line 2, strike "CREDIT" and substitute "CONSUMER";
- 23 line 4, strike "CREDIT";
- 24 line 8, strike "CREDIT".

1 Page 7, after line 3, insert the following:

2 "(f) THE DEPARTMENT OF HUMAN SERVICES OR ITS AGENTS OR
3 ASSIGNEES ACTING TO INVESTIGATE FRAUD;"

4 Reletter succeeding paragraphs accordingly.

5 Page 7, line 15, strike "CREDIT" and substitute "CONSUMER";

6 line 17, strike "CONSUMER'S CREDIT REPORT" and substitute "CONSUMER
7 REPORT".

8 Page 8, after line 4, insert the following:

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 CREDIT 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
28 ON THE CONSUMER REPORT FOR A SPECIFIC PARTY.";

29 line 5, strike "**12-14.7-103.**" and substitute "**12-14.3-106.7.**";

30 line 11, strike "CREDIT" and substitute "CONSUMER";

- 1 line 14, strike "CREDIT" and substitute "CONSUMER";
- 2 line 18, strike "CREDIT" and substitute "CONSUMER";
- 3 line 23, strike "CREDIT" and substitute "CONSUMER";
- 4 line 26, strike "CREDIT" and substitute "CONSUMER".
- 5 Page 9, line 1, strike "CREDIT" and substitute "CONSUMER";
- 6 line 10, strike "CREDIT" and substitute "CONSUMER";
- 7 line 12, strike "CREDIT" and substitute "CONSUMER";
- 8 line 15, strike "CREDIT" and substitute "CONSUMER".
- 9 Page 10, strike lines 12 through 16;
- 10 line 17, strike "**12-14.7-104.**" and substitute "**12-14.3-106.8.**";
- 11 line 19, strike "CREDIT";
- 12 line 20, strike "CREDIT".
- 13 Page 11, strike line 2 and substitute the following:
- 14 **"12-14.3-106.9. Security freeze - exemptions. (1) SECTIONS**
- 15 **12-14.3-106.6 TO 12-14.3-106.8 SHALL";**
- 16 line 3, strike "CREDIT";
- 17 line 6, strike the first and second "CREDIT";
- 18 line 8, strike the second "CREDIT";
- 19 line 9, strike "CREDIT";
- 20 line 10, strike "CREDIT";
- 21 line 11, strike "CREDIT";
- 22 strike line 12 and substitute the following:

1 "(2) THE FOLLOWING ENTITIES";
2 line 13, strike "CREDIT" and substitute "CONSUMER";
3 strike line 27 and substitute the following:

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

6 **12-14.3-107. Consumer's right to file action in court or**
7 **arbitrate disputes.** An action to enforce any obligation of a consumer
8 reporting agency to a consumer under this article may be brought in any
9 court of competent jurisdiction as provided by the federal "Fair Credit
10 Reporting Act" or submitted to binding arbitration after the consumer has
11 followed all dispute procedures in section 12-14.3-106 and has received
12 the notice specified in subsection (6) of said section, or has followed all
13 of the block procedures in section 12-14.3-106.5, OR HAS FOLLOWED ALL
14 OF THE FREEZE PROCEDURES IN SECTION 12-14.3-106.6, in the manner set
15 forth in the rules of the American arbitration association to determine
16 whether the consumer reporting agency met its obligations under this
17 article. No decision by an arbitrator pursuant to this section shall affect
18 the validity of any obligations or debts owed to any party. A successful
19 party to any such arbitration proceeding shall be compensated for the
20 costs and attorney fees of the proceeding as determined by the court or
21 arbitration. No consumer may submit more than one action to arbitration
22 against any consumer reporting agency during any
23 one-hundred-twenty-day period. The results of an arbitration action
24 brought against a consumer reporting agency doing business in this state
25 shall be communicated in a timely manner with all other consumer
26 reporting agencies doing business in this state. If, as a result of an
27 arbitration a determination is made in favor of the consumer, any adverse
28 information in such consumer's file or record shall be blocked, removed,
29 or stricken in a timely manner, OR THE CONSUMER REPORT SHALL BE
30 FROZEN WITHIN FIVE DAYS OF RECEIPT OF SUCH DETERMINATION BY THE
31 CONSUMER REPORTING AGENCY. If such adverse information is not so
32 blocked, removed, or stricken, OR THE FILE IS NOT FROZEN, the consumer
33 may bring an action against the noncomplying agency pursuant to this
34 section notwithstanding the one-hundred-twenty-day waiting period.

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

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

9 (2) (a) Any consumer reporting agency that negligently violates
10 this article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
11 amended, shall be liable for the greater of actual damages or one
12 thousand dollars for each VIOLATION OF SECTION 12-14.3-106.6, OR FOR
13 EACH inaccurate or unblocked entry in the consumer's file that was
14 disputed or alleged to be unauthorized in accordance with section
15 12-14.3-106.5 by the consumer ~~and~~ THAT affects the consumer's
16 creditworthiness, as defined in section 12-14.3-102 (4.5), PLUS reasonable
17 attorney fees, and costs, if within thirty days after receiving notice of
18 dispute from a consumer, in accordance with section 12-14.3-106, the
19 consumer reporting agency does not correct the complained of items or
20 activities and does not send the consumer and, upon request of the
21 consumer, any person who has requested the consumer information,
22 written notification of such corrective action, in accordance with section
23 12-14.3-106 (6), OR SECTION 12-14.3-106.6 or if, within thirty days after
24 receiving a copy of a police report alleging, or a certified court order
25 finding, unauthorized activity, the consumer reporting agency does not
26 block the information in accordance with section 12-14.3-106.5.

27 (b) Any consumer reporting agency that negligently violates this
28 article, or the federal "Fair Credit Reporting Act", sec. 1681c, as
29 amended, shall be liable for the greater of actual damages or one
30 thousand dollars for all VIOLATIONS OF SECTION 12-14.3-106.6 OR ALL
31 inaccurate or unblocked entries in the consumer's file that were disputed
32 or alleged to be unauthorized in accordance with section 12-14.3-106.5
33 OR SECTION 12-14.3-106.6 by the consumer ~~but~~ THAT did not affect the
34 consumer's creditworthiness, PLUS reasonable attorney fees, and costs, if
35 within thirty days after receiving notice of dispute from a consumer, in
36 accordance with section 12-14.3-106, the consumer reporting agency
37 does not correct the complained of items or activities and does not send
38 the consumer and, if requested by the consumer, any person who has
39 requested the consumer information, written notification of such
40 corrective action, in accordance with section 12-14.3-106 (6) OR SECTION
41 12-14.3-106.6 or if, within thirty days after receiving a copy of a police

1 report alleging, or a certified court order finding, unauthorized activity,
2 the consumer reporting agency does not block the information in
3 accordance with section 12-14.3-106.5.

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

12 Page 12, strike lines 1 through 23 and substitute the following:

13 **"SECTION 5. Effective date.** (1) This act shall take effect July
14 1, 2006.

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

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