

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 05-0751.01 Michael Dohr

**SENATE BILL 05-137**

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**SENATE SPONSORSHIP**

**Grossman**

**HOUSE SPONSORSHIP**

**Paccione, and Frangas**

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**Senate Committees**  
Business, Labor and Technology

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING IDENTITY THEFT.**

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**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  
Amended 2nd Reading  
March 1, 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.

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

2 **SECTION 1.** Title 12, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 14.7**

5 **Credit Report Security Freeze Act**

6 **12-14.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND  
7 MAY BE CITED AS THE "CREDIT REPORT SECURITY FREEZE ACT".

8 **12-14.7-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "CONSUMER" MEANS AN INDIVIDUAL.

11 (2) "CONSUMER REPORT" OR "CREDIT REPORT" SHALL HAVE THE  
12 SAME MEANING AS SET FORTH IN SECTION 12-14.3-102 (3).

13 \_\_\_\_\_  
14 (3) "CONSUMER REPORTING AGENCY" SHALL HAVE THE SAME  
15 MEANING AS SET FORTH IN SECTION 12-14.3-102 (4).

16 (4) "REVIEWING THE ACCOUNT" OR "ACCOUNT REVIEW" MEANS  
17 ACTIVITIES RELATED TO ACCOUNT MAINTENANCE, MONITORING,  
18 CREDIT-LINE INCREASES, AND ACCOUNT UPGRADES AND ENHANCEMENTS.

19 (5) "SECURITY FREEZE" MEANS A NOTICE, AT THE REQUEST OF A  
20 CONSUMER AND SUBJECT TO CERTAIN EXCEPTIONS, THAT PROHIBITS A

1 CONSUMER REPORTING AGENCY FROM RELEASING ALL OR ANY PART OF  
2 THE CONSUMER'S CREDIT REPORT OR ANY INFORMATION DERIVED FROM IT  
3 WITHOUT THE EXPRESS AUTHORIZATION OF THE CONSUMER.

4 **12-14.7-103. Security freeze - timing - covered entities - cost.**

5 (1) A CONSUMER MAY ELECT TO PLACE A SECURITY FREEZE ON HIS OR HER  
6 CREDIT REPORT BY:

7 (a) MAKING A REQUEST BY CERTIFIED MAIL;

8 (b) MAKING A REQUEST BY TELEPHONE AND PROVIDING CERTAIN  
9 PERSONAL IDENTIFICATION; OR

10 (c) MAKING A REQUEST DIRECTLY TO A CONSUMER REPORTING  
11 AGENCY THROUGH A SECURE ELECTRONIC MAIL CONNECTION IF SUCH A  
12 CONNECTION IS MADE AVAILABLE BY THE AGENCY.

13 (2) (a) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY  
14 FREEZE ON A CONSUMER'S CREDIT REPORT NO LATER THAN FIVE BUSINESS  
15 DAYS AFTER RECEIVING A WRITTEN OR TELEPHONE REQUEST FROM THE  
16 CONSUMER PURSUANT TO PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF  
17 THIS SECTION OR THREE BUSINESS DAYS AFTER RECEIVING A SECURE  
18 ELECTRONIC MAIL REQUEST PURSUANT TO PARAGRAPH (c) OF SUBSECTION  
19 (1) OF THIS SECTION.

20 (b) THE CONSUMER REPORTING AGENCY SHALL SEND A WRITTEN  
21 CONFIRMATION OF THE SECURITY FREEZE TO THE CONSUMER WITHIN FIVE  
22 BUSINESS DAYS AFTER PLACING THE SECURITY FREEZE AND, AT THE SAME  
23 TIME, SHALL PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL  
24 IDENTIFICATION NUMBER OR PASSWORD TO BE USED BY THE CONSUMER  
25 WHEN PROVIDING AUTHORIZATION FOR THE RELEASE OF HIS OR HER CREDIT  
26 TO A SPECIFIC PARTY OR FOR A SPECIFIC PERIOD OF TIME.

27 (3) IF THE CONSUMER CHOOSES TO ALLOW HIS OR HER CREDIT

1 REPORT TO BE ACCESSED BY A SPECIFIC PARTY OR FOR A SPECIFIC PERIOD  
2 OF TIME WHILE A SECURITY FREEZE IS IN PLACE, HE OR SHE SHALL CONTACT  
3 THE CONSUMER REPORTING AGENCY VIA TELEPHONE, CERTIFIED MAIL, OR  
4 SECURE ELECTRONIC MAIL, TO REQUEST THAT THE SECURITY 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 REPORTING AGENCY PURSUANT TO  
9 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION; AND

10 (c) THE NECESSARY INFORMATION REGARDING THE THIRD PARTY  
11 WHO MAY RECEIVE THE CREDIT REPORT OR THE TIME PERIOD DURING  
12 WHICH THE REPORT SHALL BE AVAILABLE TO USERS OF THE CREDIT  
13 REPORT.

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

19 (5) (a) A CONSUMER REPORTING AGENCY SHALL ONLY REMOVE OR  
20 TEMPORARILY LIFT A SECURITY FREEZE PLACED ON A CONSUMER'S CREDIT  
21 REPORT UPON THE CONSUMER'S REQUEST PURSUANT TO:

22 (I) SUBSECTION (3) OR (7) OF THIS SECTION; OR

23 (II) IF THE CONSUMER'S CREDIT REPORT WAS FROZEN DUE TO A  
24 MATERIAL MISREPRESENTATION OF FACT BY THE CONSUMER.

25 (b) IF A CONSUMER REPORTING AGENCY INTENDS TO REMOVE A  
26 SECURITY FREEZE PLACED ON A CONSUMER'S CREDIT REPORT PURSUANT TO  
27 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5), THE

1 CONSUMER REPORTING AGENCY SHALL NOTIFY THE CONSUMER IN WRITING  
2 FIVE BUSINESS DAYS PRIOR TO REMOVING THE FREEZE ON THE CONSUMER'S  
3 CREDIT REPORT.

4 (6) IF A THIRD PARTY REQUESTS ACCESS TO A CONSUMER CREDIT  
5 REPORT ON WHICH A SECURITY FREEZE IS IN EFFECT FOR THE PURPOSE OF  
6 RECEIVING, EXTENDING, OR OTHERWISE UTILIZING THE CREDIT THEREIN,  
7 AND NOT FOR THE SOLE PURPOSE OF ACCOUNT REVIEW, THE CONSUMER  
8 REPORTING AGENCY SHALL NOTIFY THE CONSUMER THAT AN ATTEMPT HAS  
9 BEEN MADE TO ACCESS THE CREDIT REPORT.

10 (7) A SECURITY FREEZE SHALL REMAIN IN PLACE UNTIL THE  
11 CONSUMER REQUESTS THAT THE SECURITY FREEZE BE REMOVED. A  
12 CONSUMER REPORTING AGENCY SHALL REMOVE A SECURITY FREEZE  
13 WITHIN THREE BUSINESS DAYS AFTER RECEIVING A REQUEST FOR REMOVAL  
14 FROM THE CONSUMER, WHO PROVIDES BOTH OF THE FOLLOWING:

15 (a) PROPER IDENTIFICATION; AND

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

19 (8) A CONSUMER REPORTING AGENCY SHALL REQUIRE PROPER  
20 IDENTIFICATION OF THE PERSON MAKING A REQUEST TO PLACE OR REMOVE  
21 A SECURITY FREEZE.

22 (9) A CONSUMER REPORTING AGENCY SHALL NOT SUGGEST OR  
23 OTHERWISE STATE OR IMPLY TO A THIRD PARTY THAT THE CONSUMER'S  
24 SECURITY FREEZE REFLECTS A NEGATIVE CREDIT SCORE, HISTORY, REPORT,  
25 OR RATING.

26 (10) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE  
27 USE OF A CONSUMER CREDIT REPORT BY ANY OF THE FOLLOWING:

1 (a) A PERSON, OR THE PERSON'S SUBSIDIARY, AFFILIATE, AGENT, OR  
2 ASSIGNEE, WITH WHICH THE CONSUMER HAS OR, PRIOR TO ASSIGNMENT,  
3 HAD AN ACCOUNT, CONTRACT, OR DEBTOR-CREDITOR RELATIONSHIP FOR  
4 THE PURPOSES OF REVIEWING THE ACCOUNT OR COLLECTING THE  
5 FINANCIAL OBLIGATION OWING FOR THE ACCOUNT, CONTRACT, OR DEBT;

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

10 (c) A PERSON ACTING PURSUANT TO A COURT ORDER, WARRANT,  
11 OR SUBPOENA;

12 (d) A STATE OR LOCAL AGENCY THAT ADMINISTERS A PROGRAM  
13 FOR ESTABLISHING AND ENFORCING CHILD SUPPORT OBLIGATIONS;

14 (e) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR  
15 ITS AGENTS OR ASSIGNEES ACTING TO INVESTIGATE FRAUD;

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

18 (g) THE DEPARTMENT OF REVENUE OR ITS AGENTS OR ASSIGNEES  
19 ACTING TO INVESTIGATE OR COLLECT DELINQUENT TAXES OR UNPAID  
20 COURT ORDERS OR TO FULFILL ITS OTHER STATUTORY RESPONSIBILITIES;

21 (h) A PERSON FOR THE PURPOSES OF PRESCREENING AS DEFINED BY  
22 THE "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681, ET SEQ.;

23 (i) A PERSON OR ENTITY ADMINISTERING A CREDIT FILE  
24 MONITORING SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS  
25 SUBSCRIBED; =

26 (j) A PERSON OR ENTITY FOR THE PURPOSE OF PROVIDING A  
27 CONSUMER WITH A COPY OF HIS OR HER CREDIT REPORT UPON THE

1 CONSUMER'S REQUEST;

2 (k) A PERSON REQUESTING THE CONSUMER'S CREDIT REPORT FOR  
3 USE BY AN INSURANCE BUSINESS TO SET A RATE, ADJUST A RATE, OR  
4 UNDERWRITE FOR INSURANCE PURPOSES PURSUANT TO SECTION  
5 12-14.3-103;

6 (l) A PUBLIC PENSION PLAN ACTING TO DETERMINE THE  
7 CONSUMER'S ELIGIBILITY FOR PLAN BENEFITS OR PAYMENTS AUTHORIZED  
8 BY LAW OR TO INVESTIGATE FRAUD.

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

12 (n) A COLLECTIONS INVESTIGATOR OR OTHER PERSON ENGAGED IN  
13 THE COLLECTING OF FEES, FINES, OR RESTITUTION ASSESSED IN A COURT  
14 PROCEEDING.

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

17 (11) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF  
18 THIS SUBSECTION (11), A CONSUMER SHALL NOT BE CHARGED FOR ANY  
19 SECURITY FREEZE SERVICES, INCLUDING BUT NOT LIMITED TO THE  
20 PLACEMENT OR LIFTING OF A SECURITY FREEZE.

21 (b) IF A CONSUMER FAILS TO RETAIN THE ORIGINAL PERSONAL  
22 IDENTIFICATION NUMBER PROVIDED BY THE CONSUMER REPORTING  
23 AGENCY, THE AGENCY SHALL NOT CHARGE THE CONSUMER FOR A  
24 ONE-TIME REISSUE OF THE SAME OR A NEW PERSONAL IDENTIFICATION  
25 NUMBER. THE CONSUMER REPORTING AGENCY MAY CHARGE THE  
26 CONSUMER NO MORE THAN FIVE DOLLARS FOR SUBSEQUENT INSTANCES OF  
27 LOSS AND REISSUANCE OR REPLACEMENT OF THE PERSONAL

1 IDENTIFICATION NUMBER.

2 (12) THE FOLLOWING PERSONS ARE NOT REQUIRED TO PLACE A  
3 SECURITY FREEZE ON A CONSUMER REPORT PURSUANT TO THIS SECTION:

4 (a) A CHECK SERVICES COMPANY THAT ISSUES REPORTS ON  
5 INCIDENTS OF FRAUD OR AUTHORIZATIONS FOR THE PURPOSE OF  
6 APPROVING OR PROCESSING NEGOTIABLE INSTRUMENTS, ELECTRONIC FUND  
7 TRANSFERS, OR SIMILAR METHODS OF PAYMENT;

8 (b) A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT  
9 ISSUES REPORTS REGARDING ACCOUNT DISCLOSURE DUE TO FRAUD,  
10 SUBSTANTIAL OVERDRAFTS, AUTOMATED TELLER MACHINE ABUSE, OR  
11 SIMILAR NEGATIVE INFORMATION REGARDING A CONSUMER TO INQUIRING  
12 BANKS OR FINANCIAL INSTITUTION; AND

13 (c) A FRAUD PREVENTION SERVICES COMPANY ISSUING REPORTS TO  
14 PREVENT OR INVESTIGATE FRAUD.

15 **12-14.7-104. Notice of rights.** (1) AT ANY TIME THAT A  
16 CONSUMER IS REQUIRED TO RECEIVE A SUMMARY OF RIGHTS REQUIRED  
17 UNDER SECTION 609 OF THE "FAIR CREDIT REPORTING ACT" OR UNDER  
18 STATE LAW, THE FOLLOWING NOTICE SHALL BE INCLUDED:

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

20 YOU MAY OBTAIN A SECURITY FREEZE ON YOUR  
21 CREDIT REPORT AT NO CHARGE TO PROTECT YOUR PRIVACY  
22 AND ENSURE THAT CREDIT IS NOT GRANTED IN YOUR NAME  
23 WITHOUT YOUR KNOWLEDGE. YOU HAVE A RIGHT TO PLACE  
24 A SECURITY FREEZE ON YOUR CREDIT REPORT PURSUANT TO  
25 STATE LAW.

26 THE SECURITY FREEZE WILL PROHIBIT A CONSUMER  
27 REPORTING AGENCY FROM RELEASING ANY INFORMATION IN



1 YOUR CREDIT REPORT WITHOUT YOUR EXPRESS  
2 AUTHORIZATION OR APPROVAL.

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

23 A CONSUMER REPORTING AGENCY THAT RECEIVES A  
24 REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A  
25 SECURITY FREEZE ON A CREDIT REPORT SHALL COMPLY WITH  
26 THE REQUEST NO LATER THAN THREE BUSINESS DAYS AFTER  
27 RECEIVING THE REQUEST.

1           A SECURITY FREEZE DOES NOT APPLY TO  
2           CIRCUMSTANCES WHERE YOU HAVE AN EXISTING ACCOUNT  
3           RELATIONSHIP AND A COPY OF YOUR REPORT IS REQUESTED  
4           BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES  
5           FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION,  
6           FRAUD CONTROL OR SIMILAR ACTIVITIES.

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

18          ===== YOU SHOULD PLAN AHEAD AND LIFT A SECURITY  
19          FREEZE EITHER COMPLETELY IF YOU ARE SHOPPING AROUND,  
20          OR SPECIFICALLY FOR A CERTAIN CREDITOR A FEW DAYS  
21          BEFORE ACTUALLY APPLYING FOR NEW CREDIT.

22          YOU HAVE A RIGHT TO BRING A CIVIL ACTION  
23          AGAINST A PERSON OR AGENCY WHO VIOLATES YOUR  
24          RIGHTS UNDER THE CREDIT REPORTING LAWS. THE ACTION  
25          CAN BE BROUGHT AGAINST A CONSUMER REPORTING  
26          AGENCY OR A USER OF YOUR CREDIT REPORT.

27          **12-14.7-105. Violations - penalties.** (1) IF A CONSUMER

1 REPORTING AGENCY ERRONEOUSLY, INTENTIONALLY OR  
2 UNINTENTIONALLY, VIOLATES THE SECURITY FREEZE BY RELEASING CREDIT  
3 INFORMATION THAT HAS BEEN PLACED UNDER A SECURITY FREEZE, THE  
4 AFFECTED CONSUMER IS ENTITLED TO:

5 (a) NOTIFICATION FROM THE CONSUMER REPORTING AGENCY  
6 WITHIN FIVE BUSINESS DAYS AFTER RELEASE OF THE INFORMATION,  
7 INCLUDING SPECIFICITY AS TO THE INFORMATION RELEASED AND THE  
8 THIRD-PARTY RECIPIENT OF THE INFORMATION;

9 (b) FILE A COMPLAINT WITH THE FEDERAL TRADE COMMISSION AND  
10 THE STATE ATTORNEY GENERAL; AND

11 (c) FILE A CIVIL ACTION AGAINST THE CONSUMER REPORTING  
12 AGENCY AND RECOVER:

13 (I) INJUNCTIVE RELIEF TO PREVENT OR RESTRAIN FURTHER  
14 VIOLATIONS OF THE SECURITY FREEZE; AND

15 (II) A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED TEN  
16 THOUSAND DOLLARS FOR EACH VIOLATION PLUS ANY DAMAGES AVAILABLE  
17 UNDER OTHER CIVIL LAWS AND REASONABLE EXPENSES, COURT COSTS,  
18 INVESTIGATIVE COSTS, AND ATTORNEY FEES.

19 (2) EACH VIOLATION OF A SECURITY FREEZE SHALL BE COUNTED AS  
20 A SEPARATE INCIDENT FOR PURPOSES OF IMPOSING PENALTIES UNDER THIS  
21 SECTION.

22 **SECTION 2.** Title 12, Colorado Revised Statutes, is amended  
23 **BY THE ADDITION OF A NEW ARTICLE to read:**

24 **ARTICLE 14.8**

25 **Security Breach Information Act**

26 **12-14.8-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
27 **CONTEXT OTHERWISE REQUIRES:**

1           (1) "BREACH OF THE SECURITY OF THE SYSTEM DATA" MEANS  
2           UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES  
3           THE SECURITY AND CONFIDENTIALITY, OR INTEGRITY, OF PERSONAL  
4           INFORMATION MAINTAINED BY THE AGENCY. GOOD FAITH ACQUISITION OF  
5           PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF THE AGENCY  
6           SUBJECT TO THE PROVISIONS OF THIS ARTICLE FOR A LEGITIMATE PURPOSE  
7           OF THE AGENCY IS NOT A BREACH OF THE SECURITY OF THE SYSTEM DATA,  
8           PROVIDED THAT THE PERSONAL INFORMATION IS NOT USED FOR A PURPOSE  
9           UNRELATED TO THE AGENCY OR SUBJECT TO FURTHER UNAUTHORIZED  
10          DISCLOSURE. BREACH OF THE SECURITY OF NON-COMPUTERIZED DATA  
11          MAY INCLUDE, BUT IS NOT LIMITED TO, UNAUTHORIZED PHOTOCOPYING,  
12          FACSIMILES, OR OTHER PAPER-BASED TRANSMITTAL OF DOCUMENTS.

13           (2) "DATA COLLECTOR" MEANS A GOVERNMENT AGENCY, A PUBLIC  
14           OR PRIVATE UNIVERSITY, A PRIVATELY OR PUBLICLY HELD CORPORATION,  
15           A FINANCIAL INSTITUTION, A RETAIL OPERATOR, AND ANY OTHER ENTITY  
16           THAT, FOR ANY PURPOSE, WHETHER BY AUTOMATED COLLECTION OR  
17           OTHERWISE, HANDLES, COLLECTS, DISSEMINATES, OR OTHERWISE DEALS  
18           WITH NONPUBLIC PERSONAL INFORMATION.

19           (3) "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S FIRST  
20           NAME, OR FIRST INITIAL, AND LAST NAME IN COMBINATION WITH ANY ONE  
21           OR MORE OF THE FOLLOWING DATA ELEMENTS, WHEN EITHER THE NAME OR  
22           THE DATA ELEMENTS ARE NOT ENCRYPTED OR REDACTED: SOCIAL  
23           SECURITY NUMBER, DRIVER'S LICENSE NUMBER OR STATE IDENTIFICATION  
24           CARD NUMBER, ACCOUNT NUMBER, CREDIT OR DEBIT CARD NUMBER IF  
25           CIRCUMSTANCES EXIST WHEREIN SUCH A NUMBER COULD BE USED  
26           WITHOUT ADDITIONAL IDENTIFYING INFORMATION, ACCESS CODES OR  
27           PASSWORDS, ACCOUNT PASSWORDS OR PERSONAL IDENTIFICATION

1 NUMBERS OR OTHER ACCESS CODES, ANY OF THE ITEMS LISTED HEREIN  
2 WHEN NOT IN CONNECTION WITH THE INDIVIDUAL'S FIRST NAME, OR FIRST  
3 INITIAL, AND LAST NAME, IF THE INFORMATION COMPROMISED WOULD BE  
4 SUFFICIENT TO PERFORM OR ATTEMPT TO PERFORM IDENTITY THEFT  
5 AGAINST THE PERSON WHOSE INFORMATION WAS COMPROMISED.  
6 "PERSONAL INFORMATION" DOES NOT INCLUDE PUBLICLY AVAILABLE  
7 INFORMATION THAT IS LAWFULLY MADE AVAILABLE TO THE GENERAL  
8 PUBLIC FROM FEDERAL, STATE, OR LOCAL GOVERNMENT RECORDS.

9 **12-14.8-102. Notice of breach.** (1) EXCEPT AS PROVIDED IN  
10 SUBSECTION (2) OF THIS SECTION , A DATA COLLECTOR THAT OWNS OR  
11 USES PERSONAL INFORMATION IN ANY FORM WHETHER COMPUTERIZED,  
12 PAPER, OR OTHERWISE THAT INCLUDES PERSONAL INFORMATION  
13 CONCERNING A COLORADO RESIDENT SHALL NOTIFY THE RESIDENT THAT  
14 THERE HAS BEEN A BREACH OF THE SECURITY OF THE SYSTEM DATA  
15 FOLLOWING THE DISCOVERY OR NOTIFICATION OF THE BREACH, WITHOUT  
16 REGARD FOR WHETHER OR NOT THE DATA HAS OR HAS NOT BEEN ACCESSED  
17 BY AN UNAUTHORIZED THIRD PARTY FOR LEGAL OR ILLEGAL PURPOSES.  
18 THE NOTIFICATION SHALL BE MADE IN THE MOST EXPEDIENT TIME POSSIBLE  
19 AND WITHOUT UNREASONABLE DELAY, CONSISTENT WITH THE LEGITIMATE  
20 NEEDS OF LAW ENFORCEMENT AS PROVIDED IN SUBSECTION (2) OF THIS  
21 SECTION, OR WITH ANY MEASURES NECESSARY TO DETERMINE THE SCOPE  
22 OF THE BREACH AND RESTORE THE REASONABLE INTEGRITY, SECURITY,  
23 AND CONFIDENTIALITY OF THE DATA SYSTEM.

24 (2) THE NOTIFICATION REQUIRED BY THIS SECTION MAY BE  
25 DELAYED IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE  
26 NOTIFICATION MAY IMPEDE A CRIMINAL INVESTIGATION. IF SUCH  
27 CIRCUMSTANCES SHALL ARISE, THE NOTIFICATION REQUIRED BY THIS

1 SECTION SHALL BE MADE AFTER THE LAW ENFORCEMENT AGENCY  
2 DETERMINES THAT IT WILL NOT COMPROMISE THE INVESTIGATION.

3 (3) FOR PURPOSES OF THIS SECTION, NOTICE TO CONSUMERS MAY  
4 BE PROVIDED BY ONE OF THE FOLLOWING METHODS:

5 (a) WRITTEN NOTICE;

6 (b) ELECTRONIC NOTICE, IF THE NOTICE PROVIDED IS CONSISTENT  
7 WITH THE PROVISIONS REGARDING ELECTRONIC RECORDS AND  
8 SIGNATURES, FOR NOTICES LEGALLY REQUIRED TO BE IN WRITING, SET  
9 FORTH IN 15 U.S.C. SEC. 7001;

10 (c) SUBSTITUTE NOTICE, IF THE AGENCY DEMONSTRATES THAT THE  
11 COST OF PROVIDING NOTICE WOULD EXCEED TWO HUNDRED FIFTY  
12 THOUSAND DOLLARS, THE AFFECTED CLASS OF SUBJECT PERSONS TO BE  
13 NOTIFIED EXCEEDS FIVE HUNDRED THOUSAND, OR THE AGENCY DOES NOT  
14 HAVE SUFFICIENT CONTACT INFORMATION. SUBSTITUTE NOTICE SHALL  
15 CONSIST OF ALL OF THE FOLLOWING:

16 (I) EMAIL NOTICE WHEN THE AGENCY HAS AN E-MAIL ADDRESS FOR  
17 THE SUBJECT PERSONS;

18 (II) CONSPICUOUS POSTING OF THE NOTICE ON THE AGENCY'S WEB  
19 SITE PAGE, IF THE AGENCY MAINTAINS ONE; AND

20 (III) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

21 **12-14.8-103. Waiver.** ANY WAIVER OF THE PROVISIONS OF THIS  
22 TITLE IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

23 **12-14.8-104. Remedies.** (1) A PERSON INJURED BY A VIOLATION  
24 OF THIS SECTION HAS A PRIVATE RIGHT OF ACTION AGAINST THE DATA  
25 COLLECTOR FOR DAMAGES AND INJUNCTIVE RELIEF.

26 (2) THE RIGHTS AND REMEDIES AVAILABLE UNDER THIS SECTION  
27 ARE CUMULATIVE TO EACH OTHER AND TO ANY OTHER RIGHTS AND

1 REMEDIES AVAILABLE UNDER LAW. \_\_\_\_\_

2           **SECTION 2. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, and safety.