

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading 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 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. IF A CONSUMER
4 REPORTING AGENCY INTENDS TO REMOVE A FREEZE ON A CONSUMER
5 REPORT PURSUANT TO THIS PARAGRAPH (b), THE CONSUMER
6 REPORTING AGENCY SHALL NOTIFY THE CONSUMER IN WRITING PRIOR TO
7 REMOVING THE FREEZE PLACED ON THE CONSUMER REPORT.

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

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

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

24 (a) PROPER IDENTIFICATION; AND

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

1 (10) A CONSUMER [REDACTED] REPORTING AGENCY SHALL REQUIRE
2 PROPER IDENTIFICATION OF THE PERSON MAKING A REQUEST TO PLACE OR
3 REMOVE A SECURITY FREEZE.

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

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

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

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

21 (d) A STATE OR LOCAL AGENCY, LAW ENFORCEMENT AGENCY,
22 TRIAL COURT, OR PRIVATE COLLECTION AGENCY ACTING PURSUANT TO A
23 COURT ORDER, WARRANT, OR SUBPOENA;

24 (e) A CHILD SUPPORT ENFORCEMENT AGENCY ACTING TO ENFORCE
25 CHILD SUPPORT OBLIGATIONS;

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

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

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

7 (i) THE USE OF CREDIT INFORMATION FOR THE PURPOSES OF
8 PRESCREENING AS PROVIDED FOR BY THE "FAIR CREDIT REPORTING ACT",
9 15 U.S.C. 1681, ET SEQ.;

10 (j) ANY PERSON OR ENTITY ADMINISTERING A CREDIT FILE
11 MONITORING SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS
12 SUBSCRIBED;

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

16 _____
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;

26 (o) A LICENSED HOSPITAL WITH WHICH THE CONSUMER HAS OR
27 HAD A CONTRACT, OR A DEBTOR-CREDITOR RELATIONSHIP FOR THE

1 PURPOSES OF REVIEWING THE ACCOUNT OR COLLECTING THE FINANCIAL
2 OBLIGATION OWING FOR THE CONTRACT, ACCOUNT, OR DEBT.

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

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

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

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

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

17 (II) A SUBSEQUENT REQUEST FOR A SECURITY FREEZE OF THE
18 CONSUMER REPORT AFTER THE CONSUMER'S FIRST REQUEST FOR A
19 SECURITY FREEZE HAS BEEN PERMANENTLY REMOVED FROM HIS OR HER
20 CONSUMER REPORT.

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

25 **12-14.3-106.7** Notice of rights. (1) AT ANY TIME THAT A
26 CONSUMER IS REQUIRED TO RECEIVE A SUMMARY OF RIGHTS REQUIRED
27 UNDER SECTION 609 OF THE "FAIR CREDIT REPORTING ACT" OR NOTICE

1 PURSUANT TO SECTION 12-14.3-104 (2), THE FOLLOWING NOTICE
2 SHALL BE INCLUDED:

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

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

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

24 THE SECURITY FREEZE IS DESIGNED TO PREVENT
25 CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN
26 YOUR NAME WITHOUT YOUR CONSENT. WHEN YOU PLACE A
27 SECURITY FREEZE ON YOUR CONSUMER REPORT, WITHIN

1 FIVE BUSINESS DAYS YOU WILL BE PROVIDED PROCEDURES
2 FOR THE TEMPORARY RELEASE OF YOUR CONSUMER
3 REPORT TO A SPECIFIC PARTY OR PARTIES OR FOR A PERIOD
4 OF TIME AFTER THE SECURITY FREEZE IS IN PLACE. TO
5 PROVIDE THAT AUTHORIZATION, YOU MUST CONTACT THE
6 CONSUMER REPORTING AGENCY AND PROVIDE THE PROPER
7 INFORMATION REGARDING THE THIRD PARTY OR PARTIES
8 WHO ARE TO RECEIVE THE CONSUMER REPORT OR THE
9 PERIOD OF TIME FOR WHICH THE REPORT SHALL BE
10 AVAILABLE TO USERS OF THE CONSUMER REPORT.

11 A CONSUMER REPORTING AGENCY THAT RECEIVES A
12 REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A
13 SECURITY FREEZE ON A CONSUMER REPORT SHALL COMPLY
14 WITH THE REQUEST NO LATER THAN THREE BUSINESS DAYS
15 AFTER RECEIVING THE REQUEST.

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

22 YOU SHOULD BE AWARE THAT USING A SECURITY
23 FREEZE TO TAKE CONTROL OVER WHO GAINS ACCESS TO THE
24 PERSONAL AND FINANCIAL INFORMATION IN YOUR
25 CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR
26 PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT
27 REQUEST OR APPLICATION YOU MAKE REGARDING NEW

1 LOANS, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
2 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,
3 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES,
4 DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION,
5 OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT
6 AT THE POINT OF SALE. YOU SHOULD PLAN AHEAD AND LIFT
7 A SECURITY FREEZE EITHER COMPLETELY IF YOU ARE
8 SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN
9 CREDITOR A FEW DAYS BEFORE ACTUALLY APPLYING FOR
10 NEW CREDIT.

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

17 **12-14.3-106.8. Security freeze - prohibition of changing official**
18 **information in credit report.** IF A SECURITY FREEZE IS IN PLACE, A
19 CONSUMER REPORTING AGENCY SHALL NOT CHANGE ANY OF THE
20 FOLLOWING OFFICIAL INFORMATION IN A CONSUMER REPORT
21 WITHOUT SENDING A WRITTEN NOTICE OF THE CHANGE TO THE CONSUMER
22 WITHIN THIRTY DAYS OF THE CHANGE BEING POSTED TO THE CONSUMER'S
23 FILE: NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER, AND ADDRESS.
24 WRITTEN NOTICE IS NOT REQUIRED FOR TECHNICAL MODIFICATIONS OF A
25 CONSUMER'S OFFICIAL INFORMATION, INCLUDING NAME AND STREET
26 ABBREVIATIONS, COMPLETE SPELLINGS, OR TRANSPOSITION OF NUMBERS
27 OR LETTERS. IN THE CASE OF AN ADDRESS CHANGE, THE WRITTEN NOTICE

1 SHALL BE SENT TO BOTH THE NEW ADDRESS AND THE FORMER ADDRESS.

2 **12-14.3-106.9. Security freeze - exemptions.** (1) SECTIONS
3 12-14.3-106.6 TO 12-14.3-106.8 SHALL NOT APPLY TO A CONSUMER
4 REPORTING AGENCY THAT ACTS ONLY AS A RESELLER OF CREDIT
5 INFORMATION BY ASSEMBLING AND MERGING INFORMATION CONTAINED
6 IN THE DATABASE OF ANOTHER CONSUMER REPORTING AGENCY OR
7 MULTIPLE CONSUMER REPORTING AGENCIES, AND THAT DOES NOT
8 MAINTAIN A PERMANENT DATABASE OF CREDIT INFORMATION FROM WHICH
9 NEW CONSUMER REPORTS ARE PRODUCED. HOWEVER, A CONSUMER
10 REPORTING AGENCY SHALL HONOR ANY SECURITY FREEZE PLACED
11 ON A CONSUMER REPORT BY ANOTHER CONSUMER REPORTING
12 AGENCY.

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

15 (a) A CHECK SERVICE OR FRAUD PREVENTION SERVICE THAT ISSUES
16 REPORTS ON INCIDENTS OF FRAUD OR AUTHORIZATIONS FOR THE PURPOSE
17 OF APPROVING OR PROCESSING NEGOTIABLE INSTRUMENTS, ELECTRONIC
18 FUNDS TRANSFERS, OR SIMILAR METHODS OF PAYMENTS;

19 (b) A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT
20 ISSUES REPORTS REGARDING ACCOUNT CLOSURES DUE TO FRAUD,
21 SUBSTANTIAL OVERDRAFTS, OR AUTOMATIC TELLER MACHINE ABUSE OR
22 SIMILAR NEGATIVE INFORMATION REGARDING A CONSUMER TO INQUIRING
23 BANKS OR OTHER FINANCIAL INSTITUTIONS FOR USE ONLY IN REVIEWING
24 A CONSUMER REQUEST FOR A DEPOSIT ACCOUNT AT THE INQUIRING BANK
25 OR FINANCIAL INSTITUTION;

26 (c) A FRAUD PREVENTION SERVICES COMPANY ISSUING REPORTS TO
27 PREVENT OR INVESTIGATE FRAUD.

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

3 **12-14.3-107. Consumer's right to file action in court or**
4 **arbitrate disputes.** An action to enforce any obligation of a consumer
5 reporting agency to a consumer under this article may be brought in any
6 court of competent jurisdiction as provided by the federal "Fair Credit
7 Reporting Act" or submitted to binding arbitration after the consumer has
8 followed all dispute procedures in section 12-14.3-106 and has received
9 the notice specified in subsection (6) of said section, or has followed all
10 of the block procedures in section 12-14.3-106.5, OR HAS FOLLOWED ALL
11 OF THE FREEZE PROCEDURES IN SECTION 12-14.3-106.6, in the manner set
12 forth in the rules of the American arbitration association to determine
13 whether the consumer reporting agency met its obligations under this
14 article. No decision by an arbitrator pursuant to this section shall affect
15 the validity of any obligations or debts owed to any party. A successful
16 party to any such arbitration proceeding shall be compensated for the
17 costs and attorney fees of the proceeding as determined by the court or
18 arbitration. No consumer may submit more than one action to arbitration
19 against any consumer reporting agency during any
20 one-hundred-twenty-day period. The results of an arbitration action
21 brought against a consumer reporting agency doing business in this state
22 shall be communicated in a timely manner with all other consumer
23 reporting agencies doing business in this state. If, as a result of an
24 arbitration a determination is made in favor of the consumer, any adverse
25 information in such consumer's file or record shall be blocked, removed,
26 or stricken in a timely manner, OR THE CONSUMER REPORT SHALL BE
27 FROZEN WITHIN FIVE DAYS OF RECEIPT OF SUCH DETERMINATION BY THE

1 CONSUMER REPORTING AGENCY. If such adverse information is not so
2 blocked, removed, or stricken, OR THE FILE IS NOT FROZEN, the consumer
3 may bring an action against the noncomplying agency pursuant to this
4 section notwithstanding the one-hundred-twenty-day waiting period.

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

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

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

1 written notification of such corrective action, in accordance with section
2 12-14.3-106 (6), OR SECTION 12-14.3-106.6 or if, within thirty days after
3 receiving a copy of a police report alleging, or a certified court order
4 finding, unauthorized activity, the consumer reporting agency does not
5 block the information in accordance with section 12-14.3-106.5.

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

24 (3) In addition to the damages assessed under subsections (1) and
25 (2) of this section, if, ten days after the entry of any judgment for
26 damages, the consumer's file is still not corrected, or blocked, OR FROZEN
27 by the consumer reporting agency, such assessed damages shall be

1 increased to one thousand dollars per day per UNFROZEN CONSUMER
2 REPORT OR inaccurate or unblocked entry that remains in the consumer's
3 file until the inaccurate entry is corrected or blocked, OR THE CONSUMER
4 REPORT IS FROZEN.

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

8 **7-90-306. Filing duty of secretary of state - manner of filing.**

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

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

24 (c) THE SECRETARY OF STATE MAY RETAIN THE ORIGINAL OR A
25 COPY OF A DOCUMENT OR RECORD THAT CONTAINS PERSONAL IDENTIFYING
26 INFORMATION, BUT SUCH A DOCUMENT OR RECORD SHALL BE OPEN FOR
27 INSPECTION, AND COPIES OR PRINTOUTS OF THE DOCUMENT OR RECORD OR

1 INFORMATION FROM THE DOCUMENT OR RECORD SHALL BE FURNISHED
2 ONLY UPON APPLICATION TO THE SECRETARY OF STATE AND ONLY FOR
3 GOOD CAUSE SHOWN NOTWITHSTANDING ANY PROVISION OF PART 2 OF
4 ARTICLE 72 OF TITLE 24, C.R.S., OR ANY OTHER PROVISION OF LAW.

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

- 9 (a) A SOCIAL SECURITY NUMBER;
- 10 (b) A PERSONAL IDENTIFICATION NUMBER;
- 11 (c) A PASSWORD;
- 12 (d) A PASS CODE;
- 13 (e) AN OFFICIAL STATE- OR GOVERNMENT-ISSUED DRIVER'S
14 LICENSE OR IDENTIFICATION CARD NUMBER;
- 15 (f) A GOVERNMENT PASSPORT NUMBER;
- 16 (g) BIOMETRIC DATA;
- 17 (h) AN EMPLOYER, STUDENT, OR MILITARY IDENTIFICATION
18 NUMBER;
- 19 (i) A FINANCIAL TRANSACTION DEVICE, AS SUCH TERM IS DEFINED
20 IN SECTION 18- 5-701 (3), C.R.S.;
- 21 (j) A PERSONAL IDENTIFICATION CODE, AS SUCH TERM IS DEFINED
22 IN SECTION 18-5-701 (5), C.R.S.;
- 23 (k) OTHER PERSONAL FINANCIAL INFORMATION;
- 24 (l) DATE OF BIRTH; OR
- 25 (m) NAMES OF RELATIVES.

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

1 read:

2 **18-5-119. Theft of personal identifying information.** (1) (a) A
3 PERSON WHO, WITH THE INTENT TO DEFRAUD ANOTHER PERSON OF
4 PERSONAL IDENTIFYING INFORMATION, UNLAWFULLY ENTERS A TRASH
5 RECEPTACLE AND TAKES DOCUMENTS FROM THAT TRASH RECEPTACLE
6 COMMITS THEFT OF PERSONAL IDENTIFYING INFORMATION.

7 (b) FOR PURPOSES OF THIS SECTION, "PERSONAL IDENTIFYING
8 INFORMATION" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
9 6-1-713 (2), C.R.S.; EXCEPT THAT "PERSONAL IDENTIFYING INFORMATION"
10 SHALL NOT INCLUDE A FINANCIAL TRANSACTION DEVICE, AS DEFINED IN
11 SECTION 18-5-701 (3).

12 (2) THEFT OF PERSONAL IDENTIFYING INFORMATION IS A CLASS 1
13 MISDEMEANOR.

14 **SECTION 7. Effective date.** (1) This act shall take effect July
15 1, 2006.

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