

MAINE STATE LEGISLATURE

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BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

Reported by:

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**STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 190, L.D. 581, Bill, "An Act Regarding Identity Theft Deterrence"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 10 MRSA §1312, sub-§6-B is enacted to read:

6-B. Identity theft. "Identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money or property.

Sec. 2. 10 MRSA §1312, sub-§§10-B and 10-C are enacted to read:

10-B. Proper identification. "Proper identification" means that information generally considered sufficient to identify a person.

10-C. Security freeze or freeze. "Security freeze" or "freeze" means a notice placed in a consumer report at the request of the consumer pursuant to section 1313-C that prohibits a consumer reporting agency from releasing the consumer's report or any information in the report without that consumer's express authorization.

2 Sec. 3. 10 MRSA §§1313-C, 1313-D and 1313-E are enacted to
read:

4 §1313-C. Security freeze by consumer reporting agency;
6 time in effect

8 1. Procedure. A consumer may place a security freeze on
the consumer's report as follows.

10 A. A consumer who has been the victim of identity theft may
12 place a security freeze on the consumer's report by making a
14 request in writing by certified mail to a consumer reporting
16 agency with a valid copy of a police report, investigative
18 report or complaint the consumer has filed with a law
20 enforcement agency about unlawful use of personal
 information by another person. In the case of a victim of
 identity theft, a consumer reporting agency may not charge a
 fee for placing, removing or suspending for a specific party
 or period of time a security freeze on a consumer report.

22 B. A consumer who has not been the victim of identity theft
24 may place a security freeze on the consumer's report by
26 making a request in writing by certified mail to a consumer
28 reporting agency. A consumer reporting agency may charge a
30 fee of no more than \$10 to a consumer for each freeze,
32 removal of a freeze or temporary suspension of a freeze for
34 a period of time or for reissuing the same or a new personal
 identification number if the consumer fails to retain the
 original personal identification number provided by the
 agency. A consumer reporting agency may charge a fee of not
 more than \$12 for a temporary suspension of a freeze for a
 specific party.

36 C. Subject to the exceptions in subsection 12, when a
38 security freeze has been placed on an account the consumer
 reporting agency may not:

40 (1) Release the consumer report or any information
42 from it without the express authorization of the
 consumer; or

44 (2) Release information from a consumer report to a
46 3rd party without express authorization of the
48 consumer. This subparagraph does not prevent a
 consumer reporting agency from advising a 3rd party
 that a security freeze is in effect with respect to the
 consumer report.

2 2. Time to place security freeze. A consumer reporting
3 agency shall place a security freeze on a consumer report no
4 later than 5 business days after receiving a written request from
5 the consumer.

6 3. Confirmation; personal identification number. The
7 consumer reporting agency shall send a written confirmation of
8 the security freeze to the consumer within 10 business days and
9 shall provide the consumer with a personal identification number
10 or password, other than the consumer's social security number, to
11 be used by the consumer when providing authorization for the
12 release of the consumer report to a specific party or for a
13 period of time.

14 4. Access during freeze. If the consumer wishes to allow
15 access to the consumer report by a specific party or for a period
16 of time while a freeze is in place, the consumer may contact the
17 consumer reporting agency, request that the freeze be temporarily
18 suspended and provide the following:

19 A. Proper identification;

20 B. The personal identification number or password provided
21 by the consumer reporting agency pursuant to subsection 3;
22 and

23 C. The proper information regarding the specific party
24 granted access or the time period for which the report is to
25 be available to users.

26 5. Electronic access. A consumer reporting agency may
27 develop procedures involving the use of telephone, facsimile
28 transmission, the Internet or other electronic media to receive
29 and process a request from a consumer to temporarily suspend a
30 freeze on a consumer report pursuant to subsection 4 in an
31 expedited manner. A consumer reporting agency may not charge a
32 fee to a consumer for use of these procedures in excess of those
33 fees otherwise permitted under this section.

34 6. Time to suspend freeze. A consumer reporting agency
35 that receives a request from a consumer to temporarily suspend a
36 freeze on a consumer report pursuant to subsection 4 shall comply
37 with the request no later than 3 business days after receiving
38 the request.

39 7. Suspension or removal of freeze. A consumer reporting
40 agency shall remove or temporarily suspend a freeze placed on a
41 consumer report only:

2 A. Upon consumer request, pursuant to subsection 4 or 10; or

4 B. If the consumer report was frozen due to a material
6 misrepresentation of fact by the consumer. If a consumer
8 reporting agency intends to remove a freeze upon a consumer
 report pursuant to this paragraph, the consumer reporting
 agency shall notify the consumer in writing prior to
 removing the freeze on the consumer report.

10 8. Effect of freeze. If a 3rd party requests access to a
12 consumer report on which a security freeze is in effect and this
14 request is in connection with an application for credit or any
 other use and the consumer does not allow access to the consumer
 report for that specific party or period of time, the 3rd party
 may treat the application as incomplete.

16 9. Explanation of process. If a consumer requests a
18 security freeze pursuant to this section, the consumer reporting
20 agency shall disclose to the consumer the processes of placing
22 and temporarily lifting a security freeze and the process for
24 allowing access to information from the consumer report for a
26 specific party or period of time while the security freeze is in
28 place. A consumer reporting agency shall provide a sample copy
 of the agency's disclosure form to the administrator at the first
 annual registration or reregistration under section 1328
 following the effective date of this section and any time there
 is a material change in the disclosure form required by this
 subsection.

30 10. Duration of freeze; removal. A security freeze must
32 remain in place until the consumer requests that the security
34 freeze be removed. A consumer reporting agency shall remove a
 security freeze within 3 business days of receiving a request for
 removal from a consumer who provides:

36 A. Proper identification; and

38 B. The personal identification number or password provided
40 by the consumer reporting agency pursuant to subsection 3.

42 11. Proper identification. A consumer reporting agency
44 shall require proper identification of the person making a
 request to place or remove a security freeze.

46 12. Exceptions. The provisions of this section, including
48 the security freeze, do not apply to the use of a consumer report
 by the following:

50 A. A person or person's subsidiary, affiliate, agent or
 assignee with which the consumer has or, prior to

2 assignment, had an account, contract or debtor-creditor
3 relationship for the purposes of reviewing the account or
4 collecting the financial obligation owing for the account,
5 contract or debt or extending credit to a consumer with a
6 prior or existing account, contract or debtor-creditor
7 relationship, subject to the requirements of section
8 1313-A. For purposes of this paragraph, "reviewing the
9 account" includes activities related to account maintenance,
10 monitoring, credit line increases and account upgrades and
11 enhancements;

12 B. A subsidiary, affiliate, agent, assignee or prospective
13 assignee of a person to whom access has been granted under
14 subsection 4 for purposes of facilitating the extension of
15 credit or another permissible use;

16 C. A person acting pursuant to a court order, warrant or
17 subpoena;

20 D. Child support enforcement officials when investigating a
21 child support case pursuant to Title 19-A or to Title IV-D
22 of the federal Social Security Act;

24 E. The Department of Health and Human Services or its
25 agents or assignees acting to investigate Medicaid fraud;

26 F. The Department of Administrative and Financial Services,
27 Maine Revenue Services; municipal taxing authorities; the
28 Secretary of State, Bureau of Motor Vehicles; or any of
29 their agents or assignees, acting to investigate or collect
30 delinquent taxes or assessments, including interest and
31 penalties and unpaid court orders, or to fulfill any of
32 their other statutory or charter responsibilities;

34 G. A person's use of credit information for prescreening as
35 provided by the federal Fair Credit Reporting Act or this
36 chapter;

38 H. A person for the sole purpose of providing a credit file
39 monitoring subscription service to which the consumer has
40 subscribed;

42 I. A consumer reporting agency for the sole purpose of
43 providing a consumer with a copy of that consumer's report
44 upon the consumer's request; and

46 J. The administrator pursuant to section 1328.

48 §1313-D. Duties of consumer reporting agency if security
49 freeze is in place
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2 If a security freeze is in place, a consumer reporting
4 agency may not change any of the following official information
6 in a consumer report without sending written confirmation of the
8 change to the consumer within 30 days of the change being posted
10 to the consumer's file: name, date of birth, social security
12 number and address. Written confirmation is not required for
14 technical modifications of a consumer's official information,
16 including name and street abbreviations, complete spellings and
18 transposition of numbers or letters. In the case of an address
20 change, the written confirmation must be sent to the new address
22 and the former address.

14 **§1313-E. Persons not required to place security freeze**

16 The following persons are not required to place on a
18 consumer report a security freeze pursuant to section 1313-C,
20 except that any person that is not required to place a security
22 freeze on a consumer report under the provisions of section
24 1313-C is subject to a security freeze placed on a consumer
26 report by another consumer reporting agency from which it obtains
28 information:

24 **1. Check services or fraud prevention services company.** A
26 check services or fraud prevention services company that reports
28 on incidents of fraud or issues authorizations for the purpose of
30 approving or processing negotiable instruments, electronic fund
32 transfers or similar methods of payment;

30 **2. Deposit account information service company.** A deposit
32 account information service company that issues reports regarding
34 account closures due to fraud, overdrafts, automated teller
36 machine abuse or similar negative information regarding a
38 consumer to inquiring financial institutions for use only in
40 reviewing that consumer's request for a deposit account at the
42 inquiring financial institution; and

38 **3. Consumer reporting agency.** A consumer reporting agency
40 that:

42 A. Acts only to resell credit information by assembling and
44 merging information contained in a database of one or more
46 consumer reporting agencies; and

46 B. Does not maintain a permanent database of credit
48 information from which new consumer reports are produced.

48 **Sec. 4. Effective date.** This Act takes effect February 1, 2006.'

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SUMMARY

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This amendment replaces the bill. It allows consumers to implement a security freeze on their consumer reports and describes the requirements for requesting a freeze and for lifting a freeze temporarily or permanently. This amendment establishes strict timelines for compliance by consumer reporting agencies and permits consumer reporting agencies to assess a fee for each freeze-related action taken with respect to a consumer report. In addition, it identifies exceptions to the security freeze requirements based on federal law and state enforcement requirements.

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FISCAL NOTE REQUIRED
(See attached)

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Approved: 05/09/05 *mac*

122nd MAINE LEGISLATURE

LD 581

LR 1553(02)

An Act Regarding Identity Theft Deterrence

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Business, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Establishes a new Unfair Trade Practices Act violation

The collection of additional fines may increase General Fund revenue by minor amounts