

MAINE STATE LEGISLATURE

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8/11/15
R O E S

Date: 5/11/15

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STATE OF MAINE
SENATE
127TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 150, L.D. 382, Bill, "An Act To Amend the Allowable Security Freeze Fees Charged by a Consumer Reporting Agency"

Amend the amendment by striking out the substitute title and replacing it with the following:

'An Act To Eliminate Certain Fees for Security Freezes and Allow Security Freezes for Minors'

Amend the amendment by inserting before section 1 the following:

'Sec. 1. 10 MRSA §1308, sub-§§6-A, 6-B, 7-A, 7-B and 7-C are enacted to read:

6-A. Protected consumer. "Protected consumer" means an individual who has not attained 16 years of age at the time a request for the placement of a security freeze is made.

6-B. Representative. "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

7-A. Security freeze for a protected consumer. "Security freeze for a protected consumer" means:

A. If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(1) Is placed on the protected consumer's record in accordance with section 1310, subsection 1-A; and

(2) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or

B. If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(1) Is placed on the protected consumer's consumer report in accordance with section 1310, subsection 1-A; and

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(2) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in section 1310, subsection 1-A.

7-B. Sufficient proof of authority. "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer. "Sufficient proof of authority" includes, but is not limited to:

- A. An order issued by a court of law; or
- B. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

7-C. Sufficient proof of identification. "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer. "Sufficient proof of identification" includes, but is not limited to:

- A. A social security number or a copy of a social security card issued by the federal Social Security Administration;
- B. A certified or official copy of a birth certificate; or
- C. A copy of a driver's license, an identification card issued by the Secretary of State pursuant to Title 29-A, section 1410 or any other government-issued photo identification.'

Amend the amendment in section 1 in paragraph A by striking out all of subparagraph (3) (page 2, lines 7 to 15 in amendment)

Amend the amendment by inserting after section 1 the following:

'Sec. 2. 10 MRSA §1310, sub-§1-A is enacted to read:

1-A. Security freeze for a protected consumer. Beginning October 1, 2015, a person subject to this chapter shall comply with the following provisions regarding a security freeze for a protected consumer.

A. A consumer reporting agency shall place a security freeze for a protected consumer if:

- (1) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this subsection; and
- (2) The protected consumer's representative:
 - (a) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;
 - (b) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;
 - (c) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

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1 (d) Pays to the consumer reporting agency any fee, as provided in paragraph
2 H.

3 B. If a consumer reporting agency does not have a file pertaining to a protected
4 consumer when the consumer reporting agency receives a request under this
5 subsection, the consumer reporting agency shall create a record for the protected
6 consumer.

7 This record may not be created or used to consider the protected consumer's credit
8 worthiness, credit standing, credit capacity, character, general reputation, personal
9 characteristics or mode of living for any purpose listed in 15 United States Code,
10 Section 1681b.

11 C. Within 30 days after receiving a request that meets the requirements of this
12 subsection, a consumer reporting agency shall place a security freeze for the
13 protected consumer on the record created for the protected consumer or on the file
14 pertaining to the protected consumer in the event that the consumer reporting agency
15 already has a file pertaining to the protected consumer.

16 D. Unless a security freeze for a protected consumer is removed in accordance with
17 this subsection, a consumer reporting agency may not release the protected
18 consumer's consumer report, any information derived from the protected consumer's
19 consumer report, or any record created for the protected consumer.

20 E. A security freeze for a protected consumer placed under this subsection remains in
21 effect until:

22 (1) The protected consumer or the protected consumer's representative requests
23 the consumer reporting agency to remove the security freeze in accordance with
24 this subsection; or

25 (2) The security freeze is removed in accordance with paragraph F or I.

26 F. If a protected consumer or a protected consumer's representative wishes to remove
27 a security freeze for the protected consumer, the protected consumer or the protected
28 consumer's representative shall:

29 (1) Submit a request for the removal of the security freeze to the consumer
30 reporting agency at the address or other point of contact and in the manner
31 specified by the consumer reporting agency;

32 (2) Provide to the consumer reporting agency:

33 (a) In the case of a request by the protected consumer:

34 (i) Proof that the sufficient proof of authority for the protected
35 consumer's representative to act on behalf of the protected consumer is
36 no longer valid or that the protected consumer has attained the age of 16;
37 and

38 (ii) Sufficient proof of identification of the protected consumer; or

39 (b) In the case of a request by the representative of a protected consumer:

1 (i) Sufficient proof of identification of the protected consumer and the
2 representative; and

3 (ii) Sufficient proof of authority to act on behalf of the protected
4 consumer; and

5 (3) Pay to the consumer reporting agency any fee authorized in paragraph H.

6 G. Within 30 days after receiving a request that meets the requirements for removing
7 a security freeze for a protected consumer, the consumer reporting agency shall
8 remove the security freeze.

9 H. A consumer reporting agency may charge a reasonable fee, not exceeding \$10 for
10 each placement or removal of a security freeze for a protected consumer, except that
11 a consumer reporting agency may not charge a fee for placement or removal of a
12 security freeze for a protected consumer if:

13 (1) The protected consumer or the protected consumer's representative:

14 (a) Has obtained a report of alleged identity theft or fraud against the
15 protected consumer; and

16 (b) The representative provides a copy of the report to the consumer
17 reporting agency;

18 (2) The consumer reporting agency has a consumer report pertaining to the
19 protected consumer; or

20 (3) The protected consumer or the protected consumer's representative:

21 (a) Receives a notice from an information broker or other person of a
22 security breach as required by section 1348; and

23 (b) Provides a copy of that notice to the consumer reporting agency.

24 I. A consumer reporting agency shall remove a security freeze for a protected
25 consumer or delete a record of a protected consumer if the security freeze was placed
26 or the record was created based on a material misrepresentation of fact by the
27 protected consumer or the protected consumer's representative.

28 J. The provisions of this subsection do not apply to the use of a consumer report by:

29 (1) A person administering a credit file monitoring subscription service to which
30 the protected consumer has subscribed or to which a representative has
31 subscribed on behalf of a protected consumer;

32 (2) A consumer reporting agency for the sole purpose of providing the protected
33 consumer or the protected consumer's representative a copy of the protected
34 consumer's consumer report upon the request of the protected consumer or the
35 protected consumer's representative;

36 (3) An entity described in subsection 1, paragraph M, subparagraphs (3), (4), (5)
37 and (10); or

1 (4) A consumer reporting agency's database or file that consists of information
2 concerning, and used for, one or more of the following: criminal record
3 information, fraud prevention or detection, personal loss history information,
4 and employment, tenant or background screening.

5 K. A person may not be held liable for any violation of this subsection if the person
6 shows by a preponderance of the evidence that at the time of the alleged violation the
7 person maintained reasonable procedures to ensure compliance with the provisions of
8 this subsection.

9 For the purposes of this subsection, "record" means a compilation of information that
10 identifies a protected consumer and is created by a consumer reporting agency solely for
11 the purpose of complying with section 1310, subsection 1-A.

12 **Sec. 3. 10 MRSA §1310, sub-§3,** as enacted by PL 2013, c. 228, §1, is amended
13 to read:

14 **3. Persons not required to place security freeze.** The following persons are not
15 required to place ~~on a consumer report~~ a security freeze pursuant to subsection 1 or 1-A,
16 except that any person that is not required to place a security freeze ~~on a consumer report~~
17 under the provisions of subsection 1 or 1-A is subject to a security freeze placed ~~on a~~
18 ~~consumer report~~ by another consumer reporting agency from which it obtains
19 information:

20 A. A check services or fraud prevention services company that reports on incidents
21 of fraud or issues authorizations for the purpose of approving or processing
22 negotiable instruments, electronic fund transfers or similar methods of payment;

23 B. A deposit account information services company that issues reports regarding
24 account closures due to fraud, overdrafts, automated teller machine abuse or similar
25 negative information regarding a consumer to inquiring financial institutions for use
26 only in reviewing that consumer's request for a deposit account at the inquiring
27 financial institution; and

28 C. A consumer reporting agency that:
29 (1) Acts only to resell credit information by assembling and merging information
30 contained in a database of one or more consumer reporting agencies; and
31 (2) Does not maintain a permanent database of credit information from which
32 new consumer reports are produced.'

33 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
34 or section number to read consecutively.

35 **SUMMARY**

36 This amendment amends Committee Amendment "A." It replaces the language on
37 security freezes involving minors under 16 years of age in Committee Amendment "A"
38 with language that is consistent with the laws of other states that permit security freezes
39 for minors under 16 years of age. The amendment permits a consumer reporting agency
40 to charge a fee of up to \$10 for each placement of or removal of a security freeze for a

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 150, L.D. 382

1 minor under 16 years of age. Committee Amendment "A" eliminates fees related to
2 security freezes for a consumer who is not a minor under 16 years of age.

3 SPONSORED BY: 

4 (Senator WHITTEMORE)

5 COUNTY: Somerset