
A BILL FOR AN ACT

RELATING TO SECURITY FREEZES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that recent events
2 involving security breaches of databases containing sensitive
3 identifying information, such as social security numbers and
4 addresses, have shown that these databases continue to be at
5 high risk of infiltration by identity thieves.

6 Accordingly, the purpose of this Act is to enhance consumer
7 protections by:

8 (1) Requiring Hawaii consumers to receive a notice of
9 their rights under Hawaii law to obtain a security
10 freeze on their credit reports;

11 (2) Expanding the methods by which a consumer may request
12 a security freeze; and

13 (3) Specifying that a consumer credit reporting agency
14 shall not charge a fee for placing, lifting, or
15 removing a security freeze on a consumer's credit
16 report or for placing or removing a security freeze on
17 a protected consumer's credit report or records.



SECTION 2. Chapter 489P, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§489P- Notice of rights. At any time that a consumer is required to receive a summary of rights required under section 609 of the federal Fair Credit Reporting Act, the following notice shall be included:

"HAWAII CONSUMERS HAVE THE RIGHT TO OBTAIN
A SECURITY FREEZE.

You have a right to place a security freeze on your credit report pursuant to Hawaii law. The security freeze will prohibit a consumer reporting agency from releasing your credit report or any information from it without your express authorization. A security freeze may be requested in writing by first-class mail, by telephone, or electronically via a secure website or secure electronic mail connection.

The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should



1 be aware that using a security freeze to take control
2 over who gains access to the personal and financial
3 information in your credit report may delay, interfere
4 with, or prohibit the timely approval of any
5 subsequent request or application you make regarding
6 new loans, credit, mortgage, insurance, rental
7 housing, employment, investment, license, cellular
8 phone, utilities, digital signature, Internet credit
9 card transactions, or other services, including an
10 extension of credit at point of sale.

11 The security freeze will be placed within five
12 business days after a consumer reporting agency
13 receives a written request from you. When you place a
14 security freeze on your credit report, within ten
15 business days, you will receive a written confirmation
16 of the security freeze and will be sent a personal
17 identification number or a password to use when you
18 want to remove the security freeze, temporarily lift
19 it, or lift it with respect to a particular third
20 party.



1 A freeze does not apply when you have an existing
2 account relationship and a copy of your report is
3 requested by your existing creditor or its agents or
4 affiliates for certain types of account review,
5 collection, fraud control, or similar activities.

6 You should plan ahead and lift a freeze if you
7 are actively seeking credit or services as a security
8 freeze may slow your applications, as mentioned above.

9 You can remove a freeze, temporarily lift a
10 freeze, or lift a freeze with respect to a particular
11 third party by contacting the consumer reporting
12 agency and providing all of the following:

13 (1) Clear and proper identification to verify
14 your identity;

15 (2) Your unique personal identification number
16 or password; and

17 (3) Clear and proper information regarding the
18 period of time you want your report
19 available to users of the credit report, or
20 the third party with respect to which you
21 want to lift the freeze.



1 A consumer reporting agency that receives a
2 request from you to temporarily lift a freeze or to
3 lift a freeze with respect to a particular third party
4 on a credit report shall comply with the request no
5 later than three business days after receiving the
6 request.

7 A consumer reporting agency may not charge you a
8 fee for placing, lifting, or removing a security
9 freeze.

10 You have a right to bring a civil action against
11 someone who violates your rights under the credit
12 reporting laws. The action can be brought against a
13 consumer reporting agency or a user of your credit
14 report."

15 SECTION 3. Section 489P-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " ~~[+] §489P-1 [.]~~ **Purpose.** The Federal Trade Commission
18 ~~[recently]~~ determined that between October 1998 ~~[7]~~ and September
19 2003, more than twenty-seven million three hundred Americans
20 ~~[have been]~~ were victims of identity theft, resulting in
21 billions of dollars of losses to consumers. The purpose of this



1 chapter is to protect Hawaii consumers [~~who are victims of~~
2 ~~identity theft~~] by allowing [~~them~~] consumers to place a security
3 freeze on their credit reports. This security freeze will
4 prohibit a consumer reporting agency from releasing any
5 information to unauthorized parties without the consumer's
6 express authorization and provide consumers more control over
7 who has access to their credit report. This chapter aims to
8 effectively prevent identity thieves from continuing to secure
9 credit in [~~an identity theft victim's~~] someone else's name."

10 SECTION 4. Section 489P-2, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending the definition of "security freeze" to
13 read:

14 "Security freeze" means a notice placed in a credit
15 report[₇] at the request of the consumer [~~who is a victim of~~
16 ~~identity theft.~~] or the protected consumer's representative."

17 2. By deleting the definition of "identity theft".

18 [~~"Identity theft" means the unauthorized use of another~~
19 ~~person's identifying information to obtain credit, goods,~~
20 ~~services, money, or property."~~]



SECTION 5. Section 489P-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Any consumer who is a resident of this State may place a security freeze on the consumer's credit report. A consumer credit reporting agency shall not charge ~~[a victim of identity theft]~~ a fee for placing, lifting, or removing a security freeze on a credit report ~~[but may charge any other consumer a fee not to exceed \$5 for each request by the consumer to place, lift, or remove a security freeze from the consumer's credit report]~~.

A consumer who is a resident of this State ~~[and has been the victim of identity theft]~~ may place a security freeze on the consumer's credit report by making a request ~~[in writing by certified mail to a consumer credit reporting agency,]~~ at an address, telephone number, website, or electronic mail address designated by the consumer credit reporting agency to receive such requests, ~~[with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of the consumer's personal information by another person. A consumer who has not~~



1 ~~been the victim of identity theft may place a security freeze on~~
2 ~~the consumer's credit report by making a request in writing by~~
3 ~~certified mail to a consumer credit reporting agency.]~~ by any of
4 the following methods:

- 5 (1) First-class mail;
- 6 (2) Telephone call;
- 7 (3) Secure website; or
- 8 (4) Secure electronic mail connection.

9 A security freeze shall prohibit the consumer credit
10 reporting agency from releasing the consumer's credit report or
11 any information from it without the express authorization of the
12 consumer. This subsection shall not prevent a consumer credit
13 reporting agency from advising a third party that a security
14 freeze is in effect with respect to the consumer's credit
15 report."

16 2. By amending subsection (g) to read:

17 "(g) A consumer reporting agency shall remove or
18 temporarily lift a freeze placed on a consumer's credit report
19 ~~[only in the following cases:]~~

20 ~~(1) Upon consumer]~~ upon the consumer's request ~~[; or~~



1 ~~(2) When the consumer's credit report was frozen due to a~~
2 ~~material misrepresentation of fact by the consumer]~~.

3 If a consumer reporting agency [~~intends to remove~~] removes a
4 security freeze upon a consumer's credit report pursuant to this
5 subsection, the consumer reporting agency shall [~~notify~~] send a
6 written confirmation of the removal of the security freeze to
7 the consumer [~~in writing prior to~~] within five business days of
8 removing the security freeze on the consumer's credit report."

9 SECTION 6. Section 489P-3.5, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) A consumer credit reporting agency shall place a
13 security freeze on a protected consumer's credit report or
14 records if:

15 (1) The consumer credit reporting agency receives a
16 request from the protected consumer's representative
17 for the placement of the security freeze under this
18 section; and

19 (2) The protected consumer's representative:

20 (A) Submits the request to the consumer credit
21 reporting agency at the address or other point of



1 contact specified by the consumer credit
2 reporting agency;

3 (B) Provides to the consumer credit reporting agency
4 sufficient proof of identification of the
5 protected consumer and the protected consumer's
6 representative; and

7 (C) Provides to the consumer credit reporting agency
8 sufficient proof of authority to act on behalf of
9 the protected consumer [~~;~~ and

10 ~~(D) Pays to the consumer credit reporting agency a~~
11 ~~fee as provided in subsection (h)] ."~~

12 2. By amending subsection (f) to read:

13 "(f) If a protected consumer or a protected consumer's
14 representative wishes to remove a security freeze for the
15 protected consumer, the protected consumer or the protected
16 consumer's representative shall:

17 (1) Submit a request for the removal of the security
18 freeze to the consumer credit reporting agency at the
19 address or other point of contact specified by the
20 consumer credit reporting agency; and

21 (2) Provide to the consumer credit reporting agency:



1 (A) In the case of a request by the protected
2 consumer:

3 (i) Proof that the sufficient proof of authority
4 for the protected consumer's representative
5 to act on behalf of the protected consumer
6 is no longer valid; and

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

9 (B) In the case of a request by the representative of
10 a protected consumer:

11 (i) Sufficient proof of identification of the
12 protected consumer and the representative;
13 and

14 (ii) Sufficient proof of authority to act on
15 behalf of the protected consumer[, and

16 ~~(3) Pay to the consumer credit reporting agency a fee as~~
17 ~~provided in subsection (h)] ."~~

18 3. By amending subsection (h) to read:

19 "(h) A consumer credit reporting agency [may] shall not
20 charge a [reasonable] fee[, not to exceed \$5, for each placement
21 ~~or removal of~~] for placing or removing a security freeze on a



1 credit report or records for a protected consumer[, ~~provided~~
2 ~~that a consumer credit reporting agency shall not charge a fee~~
3 ~~under this section if:~~

- 4 ~~(1) The protected consumer's representative has a valid~~
5 ~~copy of a police report, investigative report, or~~
6 ~~complaint which the protected consumer or the~~
7 ~~protected consumer's representative has filed with a~~
8 ~~law enforcement agency regarding the unlawful use of~~
9 ~~the protected consumer's personal information by~~
10 ~~another person, and provides a copy of the report to~~
11 ~~the consumer credit reporting agency; or~~
- 12 ~~(2) A request for the placement or removal of a security~~
13 ~~freeze is for a protected consumer who is under the~~
14 ~~age of sixteen at the time of the request and the~~
15 ~~consumer credit reporting agency has a credit report~~
16 ~~pertaining to the protected consumer] ."~~

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Security Freezes; Credit Reports; Consumer Credit Reporting
Agencies; Consumers; Protected Consumers; Notice; Fee

Description:

Requires Hawaii consumers who are required to receive a summary of rights under section 609 of the federal Fair Credit Reporting Act, to also receive a notice of their rights under Hawaii law to obtain a security freeze on their credit reports. Expands the methods by which a consumer may request a security freeze. Specifies that a consumer credit reporting agency shall not charge a fee for placing, lifting, or removing a security freeze on a consumer's credit report or for placing or removing a security freeze on a protected consumer's credit report or records. (SD1)

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