

**S.B. NO. 2769**

JAN 24 2018

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# A BILL FOR AN ACT

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RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

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

1       SECTION 1. The purpose of this Act is to enhance consumer  
2       protections by allowing consumers, protected consumers, and  
3       representatives of protected consumers to request consumer  
4       reporting agencies to place, remove, or lift a security freeze  
5       on their consumer reports without being charged considering  
6       recent events involving security breaches of databases  
7       containing consumer identifying information.

8       SECTION 2. Section 489P-2, Hawaii Revised Statutes, is  
9       amended to read as follows:

10       "[+]§489P-2[+] **Definitions.** When used in this chapter,  
11       unless the context otherwise requires:

12       "Consumer credit reporting agency" or "consumer reporting  
13       agency" means any person who, for monetary fees or dues or on a  
14       cooperative nonprofit basis, regularly engages in whole or in  
15       part in the practice of assembling or evaluating consumer credit  
16       information or other information on consumers for the purpose of  
17       furnishing credit reports to third parties, but does not include

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1 any governmental agency whose records are maintained primarily  
2 for law enforcement or licensing purposes.

3 "Credit report" means any written, oral, or other  
4 communication of any credit information by a consumer reporting  
5 agency, as defined in the federal Fair Credit Reporting Act,  
6 which operates or maintains a database of consumer credit  
7 information bearing on a consumer's credit worthiness, credit  
8 standing, or credit capacity.

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

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

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

17 (1) By amending subsection (a) to read as follows:

18 "(a) Any consumer who is a resident of this State may  
19 place a security freeze on the consumer's credit report. A  
20 consumer credit reporting agency shall not charge ~~[a victim of~~  
21 ~~identity theft]~~ a fee for placing, lifting, or removing a  
22 security freeze on a credit report ~~[but may charge any other~~

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1 ~~consumer a fee not to exceed \$5 for each request by the consumer~~  
2 ~~to place, lift, or remove a security freeze from the consumer's~~  
3 ~~credit report].~~

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

17 (1) First-class mail;

18 (2) Telephone call;

19 (3) Secure website; or

20 (4) Secure electronic mail connection.

21 A security freeze shall prohibit the consumer credit  
22 reporting agency from releasing the consumer's credit report or

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1 any information from it without the express authorization of the  
2 consumer. This subsection shall not prevent a consumer credit  
3 reporting agency from advising a third party that a security  
4 freeze is in effect with respect to the consumer's credit  
5 report."

6 (2) By amending subsection (g) to read as follows:

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

10 ~~(1) Upon consumer]~~ upon the consumer's request~~[- or~~

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

13 If a consumer reporting agency ~~[intends to remove]~~ removes a  
14 security freeze upon a consumer's credit report pursuant to this  
15 subsection, the consumer reporting agency shall ~~[notify]~~ send a  
16 written confirmation of the removal of the security freeze to  
17 the consumer ~~[in writing prior to]~~ within five business days of  
18 removing the security freeze on the consumer's credit report."

19 SECTION 4. Section 489P-3.5, Hawaii Revised Statutes, is  
20 amended as follows:

21 (1) By amending subsection (a) to read as follows:

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1       "(a) A consumer credit reporting agency shall place a  
2 security freeze on a protected consumer's credit report or  
3 records if:

4       (1) The consumer credit reporting agency receives a  
5 request from the protected consumer's representative  
6 for the placement of the security freeze under this  
7 section; and

8       (2) The protected consumer's representative:

9       (A) Submits the request to the consumer credit  
10 reporting agency at the address or other point of  
11 contact specified by the consumer credit  
12 reporting agency;

13       (B) Provides to the consumer credit reporting agency  
14 sufficient proof of identification of the  
15 protected consumer and the protected consumer's  
16 representative; and

17       (C) Provides to the consumer credit reporting agency  
18 sufficient proof of authority to act on behalf of  
19 the protected consumer[; ~~and~~

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

22       (2) By amending subsection (f) to read as follows:

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1       "(f) If a protected consumer or a protected consumer's  
2 representative wishes to remove a security freeze for the  
3 protected consumer, the protected consumer or the protected  
4 consumer's representative shall:

5       (1) Submit a request for the removal of the security  
6 freeze to the consumer credit reporting agency at the  
7 address or other point of contact specified by the  
8 consumer credit reporting agency; and

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

10       (A) In the case of a request by the protected  
11 consumer:

12           (i) Proof that the sufficient proof of authority  
13 for the protected consumer's representative  
14 to act on behalf of the protected consumer  
15 is no longer valid; and

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

18       (B) In the case of a request by the representative of  
19 a protected consumer:

20           (i) Sufficient proof of identification of the  
21 protected consumer and the representative;  
22 and

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

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

(3) By amending subsection (h) to read as follows:

"(h) A consumer credit reporting agency [may] shall not charge a [reasonable] fee[, not to exceed \$5, for each placement or removal of] for placing or removing a security freeze on a credit report for a protected consumer[; provided that a consumer credit reporting agency shall not charge a fee under this section if:

~~(1) The protected consumer's representative has a valid copy of a police report, investigative report, or complaint which the protected consumer or the protected consumer's representative has filed with a law enforcement agency regarding the unlawful use of the protected consumer's personal information by another person, and provides a copy of the report to the consumer credit reporting agency; or~~

~~(2) A request for the placement or removal of a security freeze is for a protected consumer who is under the age of sixteen at the time of the request and the~~

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~~consumer credit reporting agency has a credit report  
pertaining to the protected consumer]."~~

SECTION 5. Statutory material to be repealed is bracketed  
and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_



BY REQUEST



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**Report Title:**

Consumer Credit Reporting Agencies; Security Freeze; Credit Report; Protected Consumers; Fee

**Description:**

Eliminates the fee charged by a consumer reporting agency to place, lift, or remove a security freeze requested by a consumer, protected consumer, or a protected consumer's representative. Allows a consumer to request a security freeze at any time.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

## JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

PURPOSE: The purpose of this bill is to enhance consumer protections by allowing consumers, protected consumers, and protected consumer's representatives to request a consumer reporting agency to place, lift, or remove a security freeze on their credit reports without having to meet certain conditions.

MEANS: Amend sections 489P-2, 489P-3(a) and (g), and 489P-3.5(a), (f), and (h), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Recent events involving security breaches of databases containing sensitive identifying information, such as social security numbers and addresses, has shown that repositories of consumers' personal information continue to be at a high risk of infiltration by identity thieves. Although many consumers have taken proactive steps to protect their personal information by requesting consumer reporting agencies to place a security freeze on their credit reports, many have not done so due to the costs associated with obtaining a security freeze. As the number of identity thefts and security breaches rises, consumers should be able to place, lift or remove a security freeze at any time without being charged a fee. Doing so will promote consumer privacy in Hawaii.

The proposed amendments to sections 489P-3 and 489P-3.5, HRS, prohibit consumer reporting agencies from charging consumers and protected consumers a fee to place, lift, or remove a security freeze on their credit report regardless of whether the consumer or protected consumer was a victim of identity theft or not. Consumers can

also submit their request for a security freeze by first-class mail, telephone, or website submission.

Impact on the public: Consumer protection is enhanced by eliminating certain conditions required to place a security freeze on a consumer's or protected consumer's credit reports.

Impact on the department and other agencies:  
None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-110.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.