

HOUSE CS FOR SENATE BILL NO. 93(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/4/18
Referred: Rules

Sponsor(s): SENATORS COGHILL, Gardner

REPRESENTATIVES Kopp, Grenn, Wool, Drummond

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the fees that may be charged by a consumer credit reporting agency;**
2 **relating to the placement of security freezes on credit reports and credit scores; and**
3 **relating to security freezes on the credit reports or records of incapacitated persons and**
4 **certain minors."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 45.48.160(a) is amended to read:

7 (a) Except as provided by [(b),] (c) [, OR (d)] of this section, a consumer
8 credit reporting agency may not charge a consumer to place or remove a security
9 freeze, to provide access under AS 45.48.130, or to take any other action, including
10 the issuance of a personal identification number, password, or similar device under
11 AS 45.48.120, that is related to the placement of, removal of, or allowing access to a
12 credit report or credit score on which a security freeze has been placed.

13 *** Sec. 2.** AS 45.48.160(e) is amended to read:

14 (e) A consumer credit reporting agency may not charge a consumer a fee

1 under [(b) OR] (c) of this section if the consumer has been a victim of identity theft
 2 and provides the consumer credit reporting agency with a complaint filed by the
 3 consumer with a law enforcement agency.

4 * **Sec. 3.** AS 45.48.170 is amended to read:

5 **Sec. 45.48.170. Notice of rights.** When a consumer credit reporting agency is
 6 required to give a consumer a summary of rights under 15 U.S.C. 1681g (Fair Credit
 7 Reporting Act), a consumer credit reporting agency shall also give the consumer the
 8 following notice:

9 **Consumers Have the Right to Obtain a Security Freeze**

10 You may obtain a security freeze on your credit report and
 11 credit score **without charge** [FOR \$5] to protect your privacy and
 12 ensure that credit is not granted in your name without your knowledge.
 13 [YOU MAY NOT HAVE TO PAY THE \$5 CHARGE IF YOU ARE
 14 A VICTIM OF IDENTITY THEFT.] You have a right to place a
 15 security freeze on your credit report and credit score under state law
 16 (AS 45.48.100 - 45.48.290).

17 The security freeze will prohibit a consumer credit reporting
 18 agency from releasing your credit score and any information in your
 19 credit report without your express authorization or approval.

20 The security freeze is designed to prevent credit, loans, and
 21 other services from being approved in your name without your consent.
 22 However, you should be aware that using a security freeze to take
 23 control over who gets access to the personal and financial information
 24 in your credit report and credit score may delay, interfere with, or
 25 prohibit the timely approval of any subsequent request or application
 26 you make regarding a new loan, credit, a mortgage, a governmental
 27 service, a governmental payment, a cellular telephone, a utility, an
 28 Internet credit card application, an extension of credit at point of sale,
 29 and other items and services.

30 When you place a security freeze on your credit report and
 31 credit score, within 10 business days, you will be provided a personal

1 identification number, password, or similar device to use if you choose
 2 to remove the freeze on your credit report and credit score or to
 3 temporarily authorize the release of your credit report and credit score
 4 to a specific third party or specific third parties or for a specific period
 5 of time after the freeze is in place. To provide that authorization, you
 6 must contact the consumer credit reporting agency and provide all of
 7 the following:

- 8 (1) proper identification to verify your identity;
- 9 (2) the personal identification number, password, or
 10 similar device provided by the consumer credit reporting agency;
- 11 (3) proper information necessary to identify the third
 12 party or third parties who are authorized to receive the credit report and
 13 credit score or the specific period of time for which the credit report
 14 and credit score are to be available to third parties.

15 A consumer credit reporting agency that receives your request
 16 to temporarily lift a freeze on a credit report and credit score is required
 17 to comply with the request within 15 minutes, except after normal
 18 business hours and under certain other conditions, after receiving your
 19 request if you make the request by telephone, or an electronic method if
 20 the agency provides an electronic method, or within three business days
 21 after receiving your request if you make the request by mail. The
 22 consumer credit reporting agency may charge you \$2 to temporarily lift
 23 the freeze. **You may not have to pay the \$2 charge if you are a**
 24 **victim of identity theft.**

25 A security freeze does not apply to circumstances where you
 26 have an existing account relationship and a copy of your credit report
 27 and credit score are requested by your existing creditor or its agents or
 28 affiliates for certain types of account review, collection, fraud control,
 29 or similar activities.

30 If you are actively seeking credit, you should understand that
 31 the procedures involved in lifting a security freeze may slow your own

1 applications for credit. You should plan ahead and lift a freeze, either
 2 completely if you are shopping around, or specifically for a certain
 3 creditor, days before applying for new credit.

4 You have a right to bring a civil action against someone who
 5 violates your rights under these laws on security freezes. The action can
 6 be brought against a consumer credit reporting agency.

7 * **Sec. 4.** AS 45.48.220 is repealed and reenacted to read:

8 **Sec. 45.48.220. Security freeze for protected consumer.** Except as expressly
 9 referred to in AS 45.48.390, the provisions of AS 45.48.100 - 45.48.290 do not apply
 10 to a security freeze on the credit report or record of a protected consumer. In this
 11 section, "protected consumer" has the meaning given in AS 45.48.395.

12 * **Sec. 5.** AS 45.48 is amended by adding new sections to read:

13 **Article 2A. Security Freeze for Protected Consumer.**

14 **Sec. 45.48.300. Placement of security freeze.** Except as provided in
 15 AS 45.48.310, a consumer credit reporting agency shall place a security freeze on a
 16 protected consumer's credit report if

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

20 (2) the protected consumer's representative

21 (A) submits the request to the consumer credit reporting agency
 22 at the address or other point of contact of the consumer credit reporting agency
 23 and in the manner specified by the consumer credit reporting agency;

24 (B) provides to the consumer credit reporting agency sufficient
 25 proof of identification of the protected consumer;

26 (C) provides to the consumer credit reporting agency sufficient
 27 proof of identification of the protected consumer's representative and sufficient
 28 proof of authority of the protected consumer's representative to act on behalf of
 29 the protected consumer; and

30 (D) pays the consumer credit reporting agency a fee as
 31 provided in AS 45.48.380.

1 **Sec. 45.48.310. Record.** (a) If a consumer credit reporting agency does not
 2 have a credit report on a protected consumer when the consumer credit reporting
 3 agency receives a request under AS 45.48.300 that satisfies the requirements of
 4 AS 45.48.300, the consumer credit reporting agency shall create a record for the
 5 protected consumer and shall place a security freeze on the record.

6 (b) A consumer credit reporting agency may not use a protected consumer's
 7 record to consider the protected consumer's creditworthiness, credit standing, credit
 8 capacity, character, general reputation, personal characteristics, or mode of living for
 9 any permissible purpose under 15 U.S.C. 1681b.

10 **Sec. 45.48.320. Proof of identification and authority.** (a) The following
 11 information is sufficient proof of identification under AS 45.48.300:

12 (1) a social security number or a copy of the social security card issued
 13 by the United States Social Security Administration;

14 (2) a certified or official copy of a birth certificate issued by the entity
 15 authorized to issue the birth certificate;

16 (3) a copy of a driver's license or identification card issued by the
 17 Department of Administration; or

18 (4) other identification issued by an agency of the United States
 19 government, a state, or a municipality.

20 (b) The following information is sufficient proof of authority under
 21 AS 45.48.300:

22 (1) an order issued by a court; or

23 (2) a written, notarized statement that expressly describes the authority
 24 of a protected consumer's representative to act on behalf of the protected consumer
 25 and that the protected consumer's representative has signed.

26 **Sec. 45.48.330. Time of placement of security freeze.** A consumer credit
 27 reporting agency shall place a security freeze on a protected consumer's credit report
 28 or record not later than 30 days after receiving a request that meets the requirements of
 29 AS 45.48.300.

30 **Sec. 45.48.340. Operation of security freeze.** After a consumer credit
 31 reporting agency places a security freeze on a credit report or record of a protected

1 consumer under AS 45.48.300 or 45.48.310, the consumer credit reporting agency
 2 may not release a credit report or record relating to the protected consumer or
 3 information derived from the protected consumer's credit report or record without the
 4 express permission of the protected consumer's representative or the protected
 5 consumer, unless the consumer credit reporting agency removes the security freeze
 6 under AS 45.48.360 or 45.48.370.

7 **Sec. 45.48.350. Duration of security freeze.** A security freeze on a protected
 8 consumer's credit report or record remains in effect until

9 (1) the protected consumer's representative or the protected consumer
 10 requests that the consumer credit reporting agency remove the security freeze under
 11 AS 45.48.360; or

12 (2) a consumer credit reporting agency removes the security freeze
 13 under AS 45.48.370.

14 **Sec. 45.48.360. Removal of security freeze.** (a) A protected consumer or a
 15 protected consumer's representative may remove a security freeze on a protected
 16 consumer's credit report or record if the protected consumer or protected consumer's
 17 representative

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

21 (2) provides to the consumer credit reporting agency,

22 (A) in the case of a request by the protected consumer,

23 (i) sufficient proof of identification of the protected
 24 consumer; and

25 (ii) proof that the sufficient proof of authority for the
 26 protected consumer's representative to act on behalf of the protected
 27 consumer is no longer valid; or

28 (B) in the case of a request by the representative of a protected
 29 consumer,

30 (i) sufficient proof of identification of the protected
 31 consumer and the representative; and

1 (ii) sufficient proof of authority to act on behalf of the
 2 protected consumer; and
 3 (3) pays to the consumer credit reporting agency a fee under
 4 AS 45.48.380.

5 (b) The consumer credit reporting agency shall remove the security freeze on
 6 the protected consumer's credit report or record not later than 30 days after the date the
 7 agency receives a request that meets the requirements of (a) of this section.

8 **Sec. 45.48.370. Effect of material misrepresentation of fact.** A consumer
 9 credit reporting agency may remove a security freeze on a protected consumer's credit
 10 report or record, or delete a record of a protected consumer, if the protected consumer
 11 or the protected consumer's representative obtained the security freeze by using a
 12 material misrepresentation of fact.

13 **Sec. 45.48.380. Charges.** (a) Except as provided in (b) of this section, a
 14 consumer credit reporting agency may charge \$5 to place a security freeze on a
 15 protected consumer's credit report or record. A consumer credit reporting agency may
 16 not charge a fee to remove a security freeze from a protected consumer's credit report
 17 or record.

18 (b) A consumer credit reporting agency may not charge a fee for the
 19 placement of a security freeze under AS 45.48.300 - 45.48.390 if

20 (1) the protected consumer's representative submits to the consumer
 21 credit reporting agency a copy of a valid police report, investigative report, or
 22 complaint involving the commission of an offense under AS 11.46.565 that involves
 23 criminal impersonation of the protected consumer; or

24 (2) when the protected consumer's representative requests a security
 25 freeze,

26 (A) the protected consumer is under 16 years of age; and

27 (B) the consumer credit reporting agency has created a credit
 28 report relating to the protected consumer.

29 **Sec. 45.48.390. Exemptions.** AS 45.48.300 - 45.48.390 do not apply to the use
 30 of a credit report or record by

31 (1) a person acting under a court order, warrant, or subpoena;

1 (2) an agency of a state or municipality that administers a program for
2 establishing and enforcing child support obligations;

3 (3) the Department of Health and Social Services or its agents when
4 investigating fraud;

5 (4) the Department of Revenue, its agents, or its assigns when
6 investigating or collecting delinquent taxes or unpaid court orders or when
7 implementing its other statutory responsibilities;

8 (5) a person administering a credit file monitoring subscription service
9 to which the protected consumer has subscribed;

10 (6) a person providing a protected consumer with a copy of the
11 consumer's credit report or credit score at the request of the protected consumer or the
12 protected consumer's representative;

13 (7) a person if the database or credit report of the consumer credit
14 reporting agency consists entirely of information concerning and used solely for one
15 or more of the following purposes:

16 (A) criminal record information;

17 (B) personal loss history information;

18 (C) fraud prevention or detection;

19 (D) tenant screening; or

20 (E) employment screening;

21 (8) a person that provides check services or fraud prevention services
22 and issues

23 (A) reports on incidents of fraud; or

24 (B) authorizations for the purpose of approving or processing
25 negotiable instruments, electronic funds transfers, or similar payment methods;

26 or

27 (9) a person that issues reports regarding account closures because of
28 fraud, substantial overdrafts, automated teller machine abuse, or similar information
29 regarding a consumer to inquiring banks or other financial institutions solely for use
30 by the banks or other financial institutions to review a consumer request for a deposit
31 account at the inquiring bank or financial institution.

1 **Sec. 45.48.395. Definitions.** In AS 45.48.300 - 45.48.395,

2 (1) "consumer" has the meaning given in AS 45.48.290;

3 (2) "consumer credit reporting agency" has the meaning given in
4 AS 45.48.290;

5 (3) "incapacitated person" has the meaning given in AS 47.24.900;

6 (4) "proof of authority and identification" means the proof of authority
7 and identification required for a protected consumer's representative by AS 45.48.300;

8 (5) "protected consumer" means a person who is an incapacitated
9 person or under 16 years of age;

10 (6) "record" means the record created under AS 45.48.310;

11 (7) "representative" means a person who has authority to act on behalf
12 of a protected consumer;

13 (8) "security freeze" means the restriction described in AS 45.48.340
14 on releasing a credit report or record.

15 * **Sec. 6.** AS 45.48.160(b) and 45.48.160(d) are repealed.

16 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 TRANSITION. A security freeze placed under AS 45.48.220, as it read on the day
19 before the effective date of this Act, remains in effect after the effective date of this Act and is
20 subject to AS 45.48.100 - 45.48.290 until the security freeze is removed under AS 45.48.140.

21 In this section, "security freeze" has the meaning given in AS 45.48.290.