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HOUSE BILL 2859

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State of Washington

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By Representatives S. Hunt and Hudgins

Read first time 01/22/16. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to credit report security freezes; amending RCW  
2 19.182.170 and 19.182.180; adding a new section to chapter 19.182  
3 RCW; and adding a new section to chapter 70.58 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.182  
6 RCW to read as follows:

7 The definitions in this section apply throughout RCW 19.182.170  
8 through 19.182.180 unless the context clearly requires otherwise:

9 (1) "Credit report" means a consumer report, as defined in 15  
10 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in  
11 establishing a consumer's eligibility for credit for personal,  
12 family, or household purposes.

13 (2) "Normal business hours" means Sunday through Saturday,  
14 between the hours of 6:00 a.m. and 9:30 p.m. Pacific time.

15 (3) "Protected consumer" means an individual who is:

16 (a) Under the age of sixteen years old at the time a request for  
17 the placement of a security freeze is made pursuant to RCW  
18 19.182.170; or

19 (b) Incapacitated and for whom a guardian or guardian ad litem  
20 has been appointed.

1 (4) "Representative" means a person who provides to a consumer  
2 reporting agency sufficient proof of authority to act on behalf of a  
3 protected consumer.

4 (5) "Security freeze" means a prohibition, consistent with RCW  
5 19.182.170, on a consumer reporting agency's release of a consumer's  
6 credit report to a third party without prior express authorization  
7 from the consumer. A security freeze does not prevent a consumer  
8 reporting agency from advising a third party that a security freeze  
9 is in effect with respect to the consumer's credit report.

10 (6) "Sufficient proof of authority" means either:

11 (a) A certified or official copy of the protected consumer's  
12 birth certificate, if the representative is a parent of the protected  
13 consumer; or

14 (b) Documentation that shows that a representative has authority  
15 to act on behalf of a protected consumer, including the following:

16 (i) An order issued by a court of law;

17 (ii) A valid power of attorney; or

18 (iii) A written, notarized statement signed by a representative  
19 that expressly describes the authority of the representative to act  
20 on behalf of a protected consumer.

21 (7) "Victim of identity theft" means a person who has a police  
22 report evidencing their claim to be a victim of a violation of RCW  
23 9.35.020 and which report will be produced to a consumer reporting  
24 agency, upon such consumer reporting agency's request.

25 **Sec. 2.** RCW 19.182.170 and 2007 c 499 s 1 are each amended to  
26 read as follows:

27 (1) A consumer, who is a resident of this state, may elect to  
28 place a security freeze on his or her credit report by making a  
29 request in writing by certified mail or through a secure internet web  
30 site to a consumer reporting agency. (~~("Security freeze" means a~~  
31 ~~prohibition, consistent with this section, on a consumer reporting~~  
32 ~~agency's furnishing of a consumer's credit report to a third party~~  
33 ~~intending to use the credit report to determine the consumer's~~  
34 ~~eligibility for credit. If a security freeze is in place, information~~  
35 ~~from a consumer's credit report may not be released to a third party~~  
36 ~~without prior express authorization from the consumer. This~~  
37 ~~subsection does not prevent a consumer reporting agency from advising~~  
38 ~~a third party that a security freeze is in effect with respect to the~~  
39 ~~consumer's credit report.))~~)

1           (2) (~~For purposes of this section and RCW 19.182.180 through~~  
2 ~~19.182.210:~~

3           ~~(a) "Victim of identity theft" means a person who has a police~~  
4 ~~report evidencing their claim to be a victim of a violation of RCW~~  
5 ~~9.35.020 and which report will be produced to a consumer reporting~~  
6 ~~agency, upon such consumer reporting agency's request.~~

7           ~~(b) "Credit report" means a consumer report, as defined in 15~~  
8 ~~U.S.C. Sec. 1681a, that is used or collected to serve as a factor in~~  
9 ~~establishing a consumer's eligibility for credit for personal,~~  
10 ~~family, or household purposes.~~

11           ~~(c) "Normal business hours" means Sunday through Saturday,~~  
12 ~~between the hours of 6:00 a.m. and 9:30 p.m. Pacific time.))~~ A  
13 representative of a protected consumer may request a security freeze  
14 on behalf of a protected consumer who is a resident of this state by  
15 making a request in writing by certified mail or through a secure  
16 internet web site to a consumer reporting agency. The representative  
17 must submit proper identification, as provided in subsection (5)(a)  
18 of this section, for both the representative and the protected  
19 consumer and sufficient proof of authority to act on behalf of the  
20 protected consumer. If the consumer reporting agency does not have a  
21 file on the protected consumer, the agency must create a file and  
22 place a security freeze on the file and any consumer reports on the  
23 protected consumer.

24           (3) A consumer reporting agency shall place a security freeze on  
25 a consumer's credit report no later than five business days after  
26 receiving a written request from the consumer or protected consumer's  
27 representative and payment of the fee required by the consumer  
28 reporting agency under subsection (13) of this section.

29           (4) The consumer reporting agency shall send a written  
30 confirmation of the security freeze to the consumer or protected  
31 consumer's representative within ten business days and shall provide  
32 the consumer with a unique personal identification number or password  
33 to be used by the consumer when providing authorization for the  
34 release of his or her credit report for a specific party or period of  
35 time.

36           (5) If the consumer wishes to allow his or her credit report to  
37 be accessed for a specific period of time while a freeze is in place,  
38 (~~he or she~~) the consumer or protected consumer's representative  
39 shall contact the consumer reporting agency, request that the freeze  
40 be temporarily lifted, and provide the following:

1 (a) Proper identification, which means that information generally  
2 deemed sufficient to identify a person. Only if the consumer or  
3 protected consumer's representative is unable to sufficiently  
4 identify himself or herself, may a consumer reporting agency require  
5 additional information concerning the consumer's employment and  
6 personal or family history in order to verify his or her identity;

7 (b) In the case of a protected consumer's representative, proper  
8 identification of both the representative and the protected consumer  
9 and sufficient proof of authority to act on behalf of the protected  
10 consumer.

11 (c) The unique personal identification number or password  
12 provided by the consumer reporting agency under subsection (4) of  
13 this section;

14 ~~((e))~~ (d) The proper information regarding the time period for  
15 which the report is available to users of the credit report; and

16 ~~((d))~~ (e) Payment of the fee required by the consumer reporting  
17 agency under subsection (13) of this section.

18 (6) A consumer reporting agency that receives a request from a  
19 consumer or protected consumer's representative to temporarily lift a  
20 freeze on a credit report under subsection (5) of this section shall  
21 comply with the request within:

22 (a) Three business days of receiving the request by mail; or

23 (b) Fifteen minutes of receiving the request from the consumer or  
24 protected consumer's representative through the electronic contact  
25 method chosen by the consumer reporting agency in accordance with  
26 subsection (8) of this section, if the request:

27 (i) Is received during normal business hours; and

28 (ii) Includes the consumer's or protected consumer's  
29 representative's proper identification and correct personal  
30 identification number or password.

31 (7) A consumer reporting agency is not required to remove a  
32 security freeze within the time provided in subsection (6)(b) of this  
33 section if:

34 (a) The consumer or protected consumer's representative fails to  
35 meet the requirements of subsection (5) of this section; or

36 (b) The consumer reporting agency's ability to remove the  
37 security freeze within fifteen minutes is prevented by:

38 (i) An act of God, including fire, earthquakes, hurricanes,  
39 storms, or similar natural disasters or phenomena;

1 (ii) Unauthorized or illegal acts by a third party, including  
2 terrorism, sabotage, riot, vandalism, labor strikes, or disputes  
3 disrupting operations, or similar occurrences;

4 (iii) An interruption in operations, including electrical  
5 failure, unanticipated delay in equipment or replacement part  
6 delivery, computer hardware or software failures inhibiting response  
7 time, or similar disruptions;

8 (iv) Governmental action, including emergency orders or  
9 regulations, judicial or law enforcement action, or similar  
10 directives;

11 (v) Regularly scheduled maintenance of, or updates to, the  
12 consumer reporting agency's systems outside of normal business hours;

13 (vi) Commercially reasonable maintenance of, or repair to, the  
14 consumer reporting agency's systems that is unexpected or  
15 unscheduled; or

16 (vii) Receipt of a removal request outside of normal business  
17 hours.

18 (8) A consumer reporting agency may develop procedures involving  
19 the use of telephone, fax, the internet, or other electronic media to  
20 receive and process a request from a consumer to temporarily lift a  
21 freeze on a credit report under subsection (5) of this section in an  
22 expedited manner.

23 (9) A consumer reporting agency shall remove or temporarily lift  
24 a freeze placed on a consumer's credit report only in the following  
25 cases:

26 (a) Upon consumer request, under subsection (5) or (12) of this  
27 section; or

28 (b) When the consumer's credit report was frozen due to a  
29 material misrepresentation of fact by the consumer or protected  
30 consumer's representative. When a consumer reporting agency intends  
31 to remove a freeze upon a consumer's credit report under this  
32 subsection, the consumer reporting agency shall notify the consumer  
33 in writing prior to removing the freeze on the consumer's credit  
34 report.

35 (10) When a third party requests access to a consumer credit  
36 report on which a security freeze is in effect, and this request is  
37 in connection with an application for credit or any other use, and  
38 the consumer does not allow his or her credit report to be accessed  
39 for that period of time, the third party may treat the application as  
40 incomplete.

1           (11) When a consumer or protected consumer's representative  
2 requests a security freeze, the consumer reporting agency shall  
3 disclose the process of placing and temporarily lifting a freeze, and  
4 the process for allowing access to information from the consumer's  
5 credit report for a specific period of time while the freeze is in  
6 place.

7           (12) A security freeze remains in place until the consumer or  
8 protected consumer's representative requests that the security freeze  
9 be removed or, in the case of a protected consumer who is a minor at  
10 the time the security freeze is requested, the protected consumer's  
11 sixteenth birthday. A consumer reporting agency shall remove a  
12 security freeze within three business days of receiving a request for  
13 removal from the consumer or representative, who provides all of the  
14 following:

15           (a) Proper identification, as defined in subsection (5)(a) of  
16 this section;

17           (b) In the case of a protected consumer, proper identification of  
18 the protected consumer and the protected consumer's representative  
19 and sufficient proof of authority to act on behalf of the protected  
20 consumer;

21           (c) The unique personal identification number or password  
22 provided by the consumer reporting agency under subsection (4) of  
23 this section; and

24           ~~((e))~~ (d) Payment of the fee required by the consumer reporting  
25 agency under subsection (13) of this section.

26           (13)(a) Except as provided in (b) of this subsection, a consumer  
27 reporting agency may charge a fee of no more than ten dollars to a  
28 consumer or protected consumer's representative for placement of each  
29 freeze, temporary lift of the freeze, or removal of the freeze.

30           (b) A consumer reporting agency may not charge a fee to place a  
31 security freeze for:

32           (i) A victim of identity theft;

33           (ii) A protected consumer under the age of sixteen years old on  
34 whom the consumer reporting agency already has a file at the time of  
35 the request; or ~~((f))~~

36           (iii) A consumer~~((g))~~ or protected consumer who is sixty-five  
37 years old or older.

38           (14) This section does not apply to the use of a consumer credit  
39 report by any of the following:

1 (a) A person or entity, or a subsidiary, affiliate, or agent of  
2 that person or entity, or an assignee of a financial obligation owing  
3 by the consumer to that person or entity, or a prospective assignee  
4 of a financial obligation owing by the consumer to that person or  
5 entity in conjunction with the proposed purchase of the financial  
6 obligation, with which the consumer has or had prior to assignment an  
7 account or contract, including a demand deposit account, or to whom  
8 the consumer issued a negotiable instrument, for the purposes of  
9 reviewing the account or collecting the financial obligation owing  
10 for the account, contract, or negotiable instrument. For purposes of  
11 this subsection, "reviewing the account" includes activities related  
12 to account maintenance, monitoring, credit line increases, and  
13 account upgrades and enhancements;

14 (b) Any federal, state, or local entity, including a law  
15 enforcement agency, court, or their agents or assigns;

16 (c) Any person acting under a court order, warrant, or subpoena;

17 (d) A child support agency acting under Title IV-D of the social  
18 security act (42 U.S.C. Sec. 651 et seq.);

19 (e) The department of social and health services acting to  
20 fulfill any of its statutory responsibilities;

21 (f) The internal revenue service acting to investigate or collect  
22 delinquent taxes or unpaid court orders or to fulfill any of its  
23 other statutory responsibilities;

24 (g) The use of credit information for the purposes of  
25 prescreening as provided for by the federal fair credit reporting  
26 act;

27 (h) Any person or entity administering a credit file monitoring  
28 subscription service to which the consumer has subscribed;

29 (i) Any person or entity for the purpose of providing a consumer  
30 with a copy of his or her credit report upon the consumer's request;  
31 and

32 (j) A mortgage broker or loan originator required to be licensed  
33 under chapter 19.146 RCW.

34 (15) Liability may not result to the consumer reporting agency if  
35 through inadvertence or mistake the consumer reporting agency  
36 releases credit report information to a person or entity purporting  
37 to be a mortgage broker or loan originator under subsection (14) of  
38 this section that is, in fact, not a mortgage broker or loan  
39 originator.

1 (16) The consumer's or protected consumer's representative's  
2 request for a security freeze does not prohibit the consumer  
3 reporting agency from disclosing the consumer's credit report for  
4 other than credit-related purposes.

5 (17) A violation of subsection (6) of this section does not  
6 provide a private cause of action under RCW 19.86.090. A violation of  
7 subsection (6) of this section shall be enforced exclusively by the  
8 attorney general. A violation of subsection (6) of this section is  
9 subject to all other remedies and penalties available under this  
10 chapter.

11 **Sec. 3.** RCW 19.182.180 and 2005 c 342 s 2 are each amended to  
12 read as follows:

13 If a security freeze is in place, a consumer reporting agency may  
14 not change any of the following official information in a consumer  
15 credit report without sending a written confirmation of the change to  
16 the consumer or protected consumer's representative within thirty  
17 days of the change being posted to the consumer's file: Name, date of  
18 birth, social security number, and address. Written confirmation is  
19 not required for technical modifications of a consumer's official  
20 information, including name and street abbreviations, complete  
21 spellings, or transposition of numbers or letters. In the case of an  
22 address change, the written confirmation shall be sent to both the  
23 new address and to the former address.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.58  
25 RCW to read as follows:

26 The issuer of an original birth certificate issued to the parent  
27 or parents of a child shall include information prepared by the  
28 department setting forth the advisability of a security freeze under  
29 RCW 19.182.170 and the process for acquiring a security freeze.

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