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Amendment

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Offered by:

SEN. LOONEY, 11th Dist.

SEN. COLAPIETRO, 31st Dist.

REP. STONE, 9th Dist.

To: Subst. Senate Bill No. 650

File No. 190

Cal. No. 188

"AN ACT REQUIRING CONSUMER CREDIT BUREAUS TO OFFER SECURITY FREEZES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2006*) As used in this section
4 and section 2 of this act:

5 (1) "Consumer" means any person who is utilizing or seeking credit
6 for personal, family or household purposes;

7 (2) "Credit rating agency" means credit rating agency, as defined in
8 section 36a-695 of the general statutes;

9 (3) "Credit report" means credit report, as defined in section 36a-695
10 of the general statutes;

11 (4) "Creditor" means creditor, as defined in section 36a-695 of the

12 general statutes; and

13 (5) "Security freeze" means a notice placed in a consumer's credit
14 report, at the request of the consumer, that prohibits the credit rating
15 agency from releasing the consumer's credit report or any information
16 from it without the express authorization of the consumer.

17 Sec. 2. (NEW) (*Effective January 1, 2006*) (a) Any consumer may
18 submit a written request, by certified mail or such other secure method
19 as authorized by a credit rating agency, to a credit rating agency to
20 place a security freeze on such consumer's credit report. Such credit
21 rating agency shall place a security freeze on a consumer's credit
22 report not later than five business days after receipt of such request.
23 Not later than ten business days after placing a security freeze on a
24 consumer's credit report, such credit rating agency shall send a written
25 confirmation of such security freeze to such consumer that provides
26 the consumer with a unique personal identification number or
27 password to be used by the consumer when providing authorization
28 for the release of such consumer's report to a third party or for a period
29 of time.

30 (b) In the event such consumer wishes to authorize the disclosure of
31 such consumer's credit report to a third party, or for a period of time,
32 while such security freeze is in effect, such consumer shall contact such
33 credit rating agency and provide: (1) Proper identification, (2) the
34 unique personal identification number or password described in
35 subsection (a) of this section, and (3) proper information regarding the
36 third party who is to receive the credit report or the time period for
37 which the credit report shall be available. Any credit rating agency that
38 receives a request from a consumer pursuant to this section shall lift
39 such security freeze not later than three business days after receipt of
40 such request.

41 (c) Except for the temporary lifting of a security freeze as provided
42 in subsection (b) of this section, any security freeze authorized
43 pursuant to the provisions of this section shall remain in effect until

44 such time as such consumer requests such security freeze to be
45 removed. A credit rating agency shall remove such security freeze not
46 later than three business days after receipt of such request provided
47 such consumer provides proper identification to such credit rating
48 agency and the unique personal identification number or password
49 described in subsection (a) of this section at the time of such request
50 for removal of the security freeze.

51 (d) Any credit rating agency may develop procedures to receive and
52 process such request from a consumer to temporarily lift or remove a
53 security freeze on a credit report pursuant to subsection (b) of this
54 section. Such procedures, at a minimum, shall include, but not be
55 limited to, the ability of a consumer to send such temporary lift or
56 removal request by electronic mail, letter or facsimile.

57 (e) In the event that a third party requests access to a consumer's
58 credit report that has such a security freeze in place and such third
59 party request is made in connection with an application for credit or
60 any other use and such consumer has not authorized the disclosure of
61 such consumer's credit report to such third party, such third party may
62 deem such credit application as incomplete.

63 (f) Any credit rating agency may refuse to implement or may
64 remove such security freeze if such agency believes, in good faith, that:
65 (1) The request for a security freeze was made as part of a fraud that
66 the consumer participated in, had knowledge of, or that can be
67 demonstrated by circumstantial evidence, or (2) the consumer credit
68 report was frozen due to a material misrepresentation of fact by the
69 consumer. In the event any such credit rating agency refuses to
70 implement or remove a security freeze pursuant to this subsection,
71 such credit rating agency shall promptly notify such consumer in
72 writing of such refusal not later than five business days after such
73 refusal or, in the case of a removal of a security freeze, prior to
74 removing the freeze on the consumer's credit report.

75 (g) Nothing in this section shall be construed to prohibit disclosure

76 of a consumer's credit report to: (1) A person, or the person's
77 subsidiary, affiliate, agent or assignee with which the consumer has or,
78 prior to assignment, had an account, contract or debtor-creditor
79 relationship for the purpose of reviewing the account or collecting the
80 financial obligation owing for the account, contract or debt; (2) a
81 subsidiary, affiliate, agent, assignee or prospective assignee of a person
82 to whom access has been granted under subsection (b) of this section
83 for the purpose of facilitating the extension of credit or other
84 permissible use; (3) any person acting pursuant to a court order,
85 warrant or subpoena; (4) any person for the purpose of using such
86 credit information to prescreen as provided by the federal Fair Credit
87 Reporting Act; (5) any person for the sole purpose of providing a credit
88 file monitoring subscription service to which the consumer has
89 subscribed; (6) a credit rating agency for the sole purpose of providing
90 a consumer with a copy of his or her credit report upon the consumer's
91 request; or (7) a federal, state or local governmental entity, including a
92 law enforcement agency, or court, or their agents or assignees
93 pursuant to their statutory or regulatory duties. For purposes of this
94 subsection, "reviewing the account" includes activities related to
95 account maintenance, monitoring, credit line increases and account
96 upgrades and enhancements.

97 (h) The following persons shall not be required to place a security
98 freeze on a consumer's credit report, provided such persons shall be
99 subject to any security freeze placed on a credit report by another
100 credit rating agency: (1) A check services or fraud prevention services
101 company that reports on incidents of fraud or issues authorizations for
102 the purpose of approving or processing negotiable instruments,
103 electronic fund transfers or similar methods of payment; (2) a deposit
104 account information service company that issues reports regarding
105 account closures due to fraud, substantial overdrafts, automated teller
106 machine abuse, or similar information regarding a consumer to
107 inquiring banks or other financial institutions for use only in reviewing
108 a consumer request for a deposit account at the inquiring bank or
109 financial institution; or (3) a credit rating agency that: (A) Acts only to

110 resell credit information by assembling and merging information
111 contained in a database of one or more credit reporting agencies; and
112 (B) does not maintain a permanent database of credit information from
113 which new credit reports are produced.

114 (i) A credit rating agency may charge a fee of not more than ten
115 dollars to a consumer for each security freeze, removal of such freeze
116 or temporary lift of such freeze for a period of time, and a fee of not
117 more than twelve dollars for a temporary lift of such freeze for a
118 specific party.

119 (j) An insurer, as defined in section 38a-1 of the general statutes,
120 may deny an application for insurance if an applicant has placed a
121 security freeze on such applicant's credit report and fails to authorize
122 the disclosure of such applicant's credit report to such insurer
123 pursuant to the provisions of subsection (b) of this section.

124 Sec. 3. (NEW) (*Effective January 1, 2006*) (a) For purposes of this
125 section, "breach of security" means unauthorized access to or
126 acquisition of electronic files, media, databases or computerized data
127 containing personal information when access to the personal
128 information has not been secured by encryption or by any other
129 method or technology that renders the personal information
130 unreadable or unusable; "personal information" means an individual's
131 first name or first initial and last name in combination with any one, or
132 more, of the following data: (1) Social Security number; (2) driver's
133 license number or state identification card number; or (3) account
134 number, credit or debit card number, in combination with any
135 required security code, access code or password that would permit
136 access to an individual's financial account. "Personal information" does
137 not include publicly available information that is lawfully made
138 available to the general public from federal, state or local government
139 records or widely distributed media.

140 (b) Any person who conducts business in this state, and who, in the
141 ordinary course of such person's business, owns, licenses or maintains

142 computerized data that includes personal information, shall disclose
143 any breach of security following the discovery of the breach to any
144 resident of this state whose personal information was, or is reasonably
145 believed to have been, accessed by an unauthorized person through
146 such breach of security. Such disclosure shall be made without
147 unreasonable delay, subject to the provisions of subsection (c) of this
148 section and the completion of an investigation by such person to
149 determine the nature and scope of the incident, to identify the
150 individuals affected, or to restore the reasonable integrity of the data
151 system. Such notification shall not be required if, after an appropriate
152 investigation and consultation with relevant federal, state and local
153 agencies responsible for law enforcement, the person reasonably
154 determines that the breach will not likely result in harm to the
155 individuals whose personal information has been acquired and
156 accessed.

157 (c) Any person that maintains computerized data that includes
158 personal information that the person does not own shall notify the
159 owner or licensee of the information of any breach of the security of
160 the data immediately following its discovery, if the personal
161 information was, or is reasonably believed to have been accessed by an
162 unauthorized person.

163 (d) Any notification required by this section shall be delayed for a
164 reasonable period of time if a law enforcement agency determines that
165 the notification will impede a criminal investigation and such law
166 enforcement agency has made a request that the notification be
167 delayed. Any such delayed notification shall be made after such law
168 enforcement agency determines that notification will not compromise
169 the criminal investigation and so notifies the person of such
170 determination.

171 (e) Any notice required by the provisions of this section may be
172 provided by one of the following methods: (1) Written notice; (2)
173 telephone notice; (3) electronic notice, provided such notice is
174 consistent with the provisions regarding electronic records and

175 signatures set forth in 15 USC 7001; (4) substitute notice, provided such
176 person demonstrates that the cost of providing notice in accordance
177 with subdivision (1), (2) or (3) of this subsection would exceed two
178 hundred fifty thousand dollars, that the affected class of subject
179 persons to be notified exceeds five hundred thousand persons or the
180 person does not have sufficient contact information. Substitute notice
181 shall consist of the following: (A) Electronic mail notice when the
182 person, business or agency has an electronic mail address for the
183 affected persons; (B) conspicuous posting of the notice on the web site
184 of the person, business or agency if the person maintains one; and (C)
185 notification to major state-wide media, including newspapers, radio
186 and television.

187 (f) Notwithstanding the provisions of subsection (e) of this section,
188 any person that maintains its own security breach procedures as part
189 of an information security policy for the treatment of personal
190 information and otherwise complies with the timing requirements of
191 this section, shall be deemed to be in compliance with the security
192 breach notification requirements of this section, provided such person
193 notifies subject persons in accordance with such person's policies in the
194 event of a breach of security. Any person that maintains such a
195 security breach procedure pursuant to the rules, regulations,
196 procedures or guidelines established by the primary or functional
197 regulator, as defined in 15 USC 6809(4), shall be deemed to be in
198 compliance with the security breach notification requirements of this
199 section, provided such person notifies subject persons in accordance
200 with the policies or the rules, regulations, procedures or guidelines
201 established by the primary or functional regulator in the event of a
202 breach of security of the system.

203 (g) Failure to comply with the requirements of this section shall
204 constitute an unfair trade practice for purposes of section 42-110b of
205 the general statutes and shall be enforced by the Attorney General."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	New section
Sec. 2	<i>January 1, 2006</i>	New section
Sec. 3	<i>January 1, 2006</i>	New section