



# Senate

General Assembly

**File No. 341**

February Session, 2018

Substitute Senate Bill No. 472

*Senate, April 9, 2018*

The Committee on Banking reported through SEN. WINFIELD of the 10th Dist. and SEN. MARTIN of the 31st Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING SECURITY FREEZES ON CREDIT REPORTS, IDENTITY THEFT PREVENTION SERVICES, EMPLOYER CREDIT INQUIRIES AND REGULATIONS OF CREDIT RATING AGENCIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-701a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) Any consumer may submit a written request, by certified mail or  
4 such other secure method as authorized by a credit rating agency, to a  
5 credit rating agency to place a security freeze on such consumer's  
6 credit report. Such credit rating agency shall place a security freeze on  
7 a consumer's credit report as soon as practicable, but not later than five  
8 business days after receipt of such request. Not later than ten business  
9 days after placing a security freeze on a consumer's credit report, such  
10 credit rating agency shall send a written confirmation of such security  
11 freeze to such consumer that provides the consumer with a unique  
12 personal identification number or password to be used by the

13 consumer when providing authorization for the release of such  
14 consumer's report to a third party or for a period of time. Nothing in  
15 this subsection shall be deemed to require a consumer reporting  
16 agency to provide to a minor child or the parent or legal guardian of a  
17 minor child, on behalf of the minor child, a unique personal  
18 identification number, password or similar device to be used to  
19 authorize the consumer reporting agency to release such minor child's  
20 credit report.

21 (b) In the event such consumer, other than a minor child or the  
22 parent or legal guardian of a minor child, wishes to authorize the  
23 disclosure of such consumer's credit report to a third party, or for a  
24 period of time, while such security freeze is in effect, such consumer  
25 shall contact such credit rating agency and provide: (1) Proper  
26 identification, (2) the unique personal identification number or  
27 password described in subsection (a) of this section, and (3) proper  
28 information regarding the third party who is to receive the credit  
29 report or the time period for which the credit report shall be available.  
30 Any credit rating agency that receives a request from a consumer  
31 pursuant to this section shall lift such security freeze not later than  
32 three business days after receipt of such request.

33 (c) Except for the temporary lifting of a security freeze as provided  
34 in subsection (b) of this section, any security freeze authorized  
35 pursuant to the provisions of this section shall remain in effect until  
36 such time as such consumer requests such security freeze to be  
37 removed. A credit rating agency shall remove such security freeze as  
38 soon as practicable, but not later than three business days after receipt  
39 of such request provided such consumer provides proper  
40 identification to such credit rating agency and the unique personal  
41 identification number or password described in subsection (a) of this  
42 section at the time of such request for removal of the security freeze. In  
43 the case of a minor child, the credit rating agency shall remove such  
44 security freeze not later than fifteen business days after receipt of such  
45 request, provided the minor child or the parent or legal guardian of the  
46 minor child uses the unique personal identification number, password

47 or similar device provided under subsection (a) of this section at the  
48 time of such request, if applicable.

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

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

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

73 (g) Nothing in this section shall be construed to prohibit disclosure  
74 of a consumer's credit report to: (1) A person, or the person's  
75 subsidiary, affiliate, agent or assignee with which the consumer has or,  
76 prior to assignment, had an account, contract or debtor-creditor  
77 relationship for the purpose of reviewing the account or collecting the  
78 financial obligation owing for the account, contract or debt; (2) a  
79 subsidiary, affiliate, agent, assignee or prospective assignee of a person

80 to whom access has been granted under subsection (b) of this section  
81 for the purpose of facilitating the extension of credit or other  
82 permissible use; (3) any person acting pursuant to a court order,  
83 warrant or subpoena; (4) any person for the purpose of using such  
84 credit information to prescreen as provided by the federal Fair Credit  
85 Reporting Act; (5) any person for the sole purpose of providing a credit  
86 file monitoring subscription service to which the consumer has  
87 subscribed; (6) a credit rating agency for the sole purpose of providing  
88 a consumer with a copy of his or her credit report upon the consumer's  
89 request; or (7) a federal, state or local governmental entity, including a  
90 law enforcement agency, or court, or their agents or assignees  
91 pursuant to their statutory or regulatory duties. For purposes of this  
92 subsection, "reviewing the account" includes activities related to  
93 account maintenance, monitoring, credit line increases and account  
94 upgrades and enhancements.

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

112 (i) (1) [Except as provided in subdivision (2) of this subsection, a] A  
113 credit rating agency [may] shall not (A) charge a fee [of not more than

114 ten dollars] to a consumer for [each] a security freeze, removal of such  
115 freeze, [or] temporary lift of such freeze for a period of time [, and a fee  
116 of not more than twelve dollars for] or a temporary lift of such freeze  
117 for a specific party, or (B) require as a condition for placing a security  
118 freeze that a consumer enter into an agreement that limits any claim  
119 the consumer may have against such credit rating agency.

120 (2) [A credit rating agency shall not charge the fees authorized by  
121 subdivision (1) of this subsection to: (A) A victim of identity theft or  
122 the spouse of any victim of identity theft, who has submitted a copy of  
123 a police report prepared pursuant to section 54-1n to the credit rating  
124 agency; (B) any person who is covered under the victim of identity  
125 theft's individual or group health insurance policy providing coverage  
126 of the type specified in subdivisions (1), (2), (4), (11) and (12) of section  
127 38a-469, who has submitted a copy of a police report prepared  
128 pursuant to section 54-1n to the credit rating agency; (C) a person  
129 sixty-two years of age or older; (D) a person under eighteen years of  
130 age; (E) a person for whom a guardian or conservator has been  
131 appointed by a court; and (F) a victim of domestic violence, as defined  
132 in subdivision (1) of subsection (a) of section 17b-112a, who has  
133 provided evidence of such domestic violence as specified in subsection  
134 (b) of section 17b-112a to the credit rating agency.] Whenever a  
135 consumer requests that a credit rating agency place or remove a  
136 security freeze, temporary or otherwise, on such consumer's credit  
137 report, the credit rating agency shall provide the consumer with the  
138 option of having such credit rating agency notify any or all other credit  
139 rating agencies of such request. If the consumer requests such  
140 notification, the credit rating agency shall notify the specified other  
141 credit rating agencies of the consumer's request to place or remove a  
142 security freeze, as the case may be. A credit rating agency receiving  
143 such notification shall treat the consumer's request to place or remove  
144 a security freeze as if it received the request directly from the  
145 consumer and shall be subject to the provisions of this section. No  
146 credit rating agency shall charge a fee to a consumer for a  
147 [replacement] personal identification number. [when such replacement  
148 is the first one requested by the consumer.]

149 (j) The parent or legal guardian of a minor child may place a  
150 security freeze on the credit report of a minor child by submitting a  
151 written request to the credit rating agency in the manner described in  
152 this section and subject to the same conditions and by providing the  
153 credit rating agency with proper identification and sufficient proof of  
154 authority to act on behalf of the minor child. The credit rating agency  
155 shall place the security freeze on the credit report of a minor child as  
156 soon as practicable, but not later than five business days after receipt of  
157 such request. If the credit rating agency does not have any information  
158 in its files pertaining to the minor child at the time the credit rating  
159 agency receives a request pursuant to this subsection, the credit rating  
160 agency shall create a record for the minor child and place a security  
161 freeze on such record. Such record shall consist of a compilation of  
162 information created by a credit rating agency that identifies a minor  
163 child. A credit rating agency shall not create or use such record to  
164 consider the minor child's credit worthiness, credit standing, credit  
165 capacity, character, general reputation, personal characteristics or  
166 mode of living. A credit rating agency shall not release a minor child's  
167 credit report, any information derived from a minor child's credit  
168 report or any record created for a minor child.

169 (k) The parent or legal guardian of a minor child may request the  
170 removal of a security freeze placed on the credit report or record of a  
171 minor child by submitting a written request to the credit rating agency  
172 in the manner described in this section and subject to the same  
173 conditions and by providing the credit rating agency with proper  
174 identification and sufficient proof of authority to act on behalf of the  
175 minor child. The credit rating agency shall remove the security freeze  
176 on the credit report or record of a minor child not later than fifteen  
177 business days after receipt of such request.

178 (l) An insurer, as defined in section 38a-1, may deny an application  
179 for insurance if an applicant has placed a security freeze on such  
180 applicant's credit report and fails to authorize the disclosure of such  
181 applicant's credit report to such insurer pursuant to the provisions of  
182 subsection (b) of this section.

183 (m) Any security freeze in a credit report in effect as of October 1,  
184 2016, shall continue to be in effect until the consumer or the parent or  
185 legal guardian of a minor child requests the removal of the security  
186 freeze.

187 Sec. 2. Section 36a-701b of the general statutes is repealed and the  
188 following is substituted in lieu thereof (*Effective October 1, 2018*):

189 (a) For purposes of this section, (1) "breach of security" means  
190 unauthorized access to or unauthorized acquisition of electronic files,  
191 media, databases or computerized data, containing personal  
192 information when access to the personal information has not been  
193 secured by encryption or by any other method or technology that  
194 renders the personal information unreadable or unusable; and (2)  
195 "personal information" means an individual's first name or first initial  
196 and last name in combination with any one, or more, of the following  
197 data: (A) Social Security number; (B) driver's license number or state  
198 identification card number; [or] (C) [account number,] credit or debit  
199 card number; [,] or (D) financial account number in combination with  
200 any required security code, access code or password that would permit  
201 access to [an individual's] such financial account. "Personal  
202 information" does not include publicly available information that is  
203 lawfully made available to the general public from federal, state or  
204 local government records or widely distributed media.

205 (b) (1) Any person who conducts business in this state, and who, in  
206 the ordinary course of such person's business, owns, licenses or  
207 maintains computerized data that includes personal information, shall  
208 provide notice of any breach of security following the discovery of the  
209 breach to any resident of this state whose personal information was  
210 breached or is reasonably believed to have been breached. Such notice  
211 shall be made without unreasonable delay but not later than ninety  
212 days after the discovery of such breach, unless a shorter time is  
213 required under federal law, subject to the provisions of subsection (d)  
214 of this section and the completion of an investigation by such person to  
215 determine the nature and scope of the incident, to identify the

216 individuals affected, or to restore the reasonable integrity of the data  
217 system. Such notification shall not be required if, after an appropriate  
218 investigation and consultation with relevant federal, state and local  
219 agencies responsible for law enforcement, the person reasonably  
220 determines that the breach will not likely result in harm to the  
221 individuals whose personal information has been acquired and  
222 accessed.

223 (2) If notice of a breach of security is required by subdivision (1) of  
224 this subsection:

225 (A) The person who conducts business in this state, and who, in the  
226 ordinary course of such person's business, owns, licenses or maintains  
227 computerized data that includes personal information, shall, not later  
228 than the time when notice is provided to the resident, also provide  
229 notice of the breach of security to the Attorney General; and

230 (B) The person who conducts business in this state, and who, in the  
231 ordinary course of such person's business, owns or licenses  
232 computerized data that includes personal information, shall offer to  
233 each resident whose personal information under subparagraph (A) of  
234 subdivision (4) of subsection (a) of section 38a-999b or subparagraph  
235 (A) of subdivision (2) of subsection (a) of this section was breached or  
236 is reasonably believed to have been breached, appropriate identity  
237 theft prevention services and, if applicable, identity theft mitigation  
238 services. Such service or services shall be provided at no cost to such  
239 resident for a period of not less than [twelve] twenty-four months.  
240 Such person shall provide all information necessary for such resident  
241 to enroll in such service or services and shall include information on  
242 how such resident can place a credit freeze on such resident's credit  
243 file.

244 (c) Any person that maintains computerized data that includes  
245 personal information that the person does not own shall notify the  
246 owner or licensee of the information of any breach of the security of  
247 the data immediately following its discovery, if the personal  
248 information of a resident of this state was breached or is reasonably



249 believed to have been breached.

250 (d) Any notification required by this section shall be delayed for a  
251 reasonable period of time if a law enforcement agency determines that  
252 the notification will impede a criminal investigation and such law  
253 enforcement agency has made a request that the notification be  
254 delayed. Any such delayed notification shall be made after such law  
255 enforcement agency determines that notification will not compromise  
256 the criminal investigation and so notifies the person of such  
257 determination.

258 (e) Any notice to a resident, owner or licensee required by the  
259 provisions of this section may be provided by one of the following  
260 methods: (1) Written notice; (2) telephone notice; (3) electronic notice,  
261 provided such notice is consistent with the provisions regarding  
262 electronic records and signatures set forth in 15 USC 7001; (4)  
263 substitute notice, provided such person demonstrates that the cost of  
264 providing notice in accordance with subdivision (1), (2) or (3) of this  
265 subsection would exceed two hundred fifty thousand dollars, that the  
266 affected class of subject persons to be notified exceeds five hundred  
267 thousand persons or that the person does not have sufficient contact  
268 information. Substitute notice shall consist of the following: (A)  
269 Electronic mail notice when the person has an electronic mail address  
270 for the affected persons; (B) conspicuous posting of the notice on the  
271 web site of the person if the person maintains one; and (C) notification  
272 to major state-wide media, including newspapers, radio and television.

273 (f) Any person that maintains such person's own security breach  
274 procedures as part of an information security policy for the treatment  
275 of personal information and otherwise complies with the timing  
276 requirements of this section, shall be deemed to be in compliance with  
277 the security breach notification requirements of this section, provided  
278 such person notifies, as applicable, residents of this state, owners and  
279 licensees in accordance with such person's policies in the event of a  
280 breach of security and in the case of notice to a resident, such person  
281 also notifies the Attorney General not later than the time when notice

282 is provided to the resident. Any person that maintains such a security  
283 breach procedure pursuant to the rules, regulations, procedures or  
284 guidelines established by the primary or functional regulator, as  
285 defined in 15 USC 6809(2), shall be deemed to be in compliance with  
286 the security breach notification requirements of this section, provided  
287 (1) such person notifies, as applicable, such residents of this state,  
288 owners, and licensees required to be notified under and in accordance  
289 with the policies or the rules, regulations, procedures or guidelines  
290 established by the primary or functional regulator in the event of a  
291 breach of security, and (2) if notice is given to a resident of this state in  
292 accordance with subdivision (1) of this subsection regarding a breach  
293 of security, such person also notifies the Attorney General not later  
294 than the time when notice is provided to the resident.

295 (g) Failure to comply with the requirements of this section shall  
296 constitute an unfair trade practice for purposes of section 42-110b and  
297 shall be enforced by the Attorney General.

298 Sec. 3. Section 31-51tt of the general statutes is repealed and the  
299 following is substituted in lieu thereof (*Effective October 1, 2018*):

300 (a) As used in this section:

301 (1) "Employee" means any person engaged in service to an employer  
302 in a business of his employer;

303 (2) "Employer" means any person engaged in business who has one  
304 or more employees, including the state or any political subdivision of  
305 the state;

306 (3) "Financial institution" means (A) any entity or affiliate of a state  
307 bank and trust company, national banking association, state or  
308 federally chartered savings bank, state or federally chartered savings  
309 and loan association, state or federally chartered credit union,  
310 insurance company, investment advisor, broker-dealer, (B) an entity  
311 registered with the Securities and Exchange Commission, or (C) any  
312 mortgage broker, mortgage correspondent lender or mortgage lender

313 licensed pursuant to chapter 668 or any mortgage servicing company,  
314 as defined in section 36a-715; and

315 (4) "Substantially related to the employee's current or potential job"  
316 means the information contained in the credit report is related to the  
317 position for which the employee or prospective employee who is the  
318 subject of the report is being evaluated because the position:

319 (A) Is a managerial position which involves setting the direction or  
320 control of a business, division, unit or an agency of a business;

321 (B) Involves access to customers', employees' or the employer's  
322 personal or financial information other than information customarily  
323 provided in a retail transaction;

324 (C) Involves a fiduciary responsibility to the employer, including,  
325 but not limited to, the authority to issue payments, collect debts,  
326 transfer money or enter into contracts;

327 (D) Provides an expense account or corporate debit or credit card;

328 (E) Provides access to (i) confidential or proprietary business  
329 information, or (ii) information, including a formula, pattern,  
330 compilation, program, device, method, technique, process or trade  
331 secret that: (I) Derives independent economic value, actual or  
332 potential, from not being generally known to, and not being readily  
333 ascertainable by proper means by, other persons who can obtain  
334 economic value from the disclosure or use of the information; and (II)  
335 is the subject of efforts that are reasonable under the circumstances to  
336 maintain its secrecy; or

337 (F) Involves access to [the employer's nonfinancial assets valued at  
338 two thousand five dollars or more, including, but not limited to,]  
339 museum and library collections and to prescription drugs and other  
340 pharmaceuticals.

341 (b) No employer or employer's agent, representative or designee  
342 may require an employee or prospective employee to consent to a

343 request for a credit report that contains information about the  
344 employee's or prospective employee's credit score, credit account  
345 balances, payment history, savings or checking account balances or  
346 savings or checking account numbers as a condition of employment  
347 unless (1) such employer is a financial institution, (2) such report is  
348 required by law, (3) the employer reasonably believes that the  
349 employee has engaged in specific activity that constitutes a violation of  
350 the law related to the employee's employment, or (4) such report is  
351 substantially related to the employee's current or potential job or the  
352 employer has a bona fide purpose for requesting or using information  
353 in the credit report that is substantially job-related and is disclosed in  
354 writing to the employee or applicant.

355 (c) Any employee or prospective employee may file a complaint  
356 with the Labor Commissioner alleging a violation of the provisions of  
357 subsection (b) of this section. Within thirty days after the filing of such  
358 complaint, the commissioner shall conduct an investigation and shall  
359 render his findings. Should such findings warrant, the commissioner  
360 shall hold a hearing, in accordance with the provisions of chapter 54.  
361 An employer shall be liable to the Labor Department for a civil penalty  
362 of three hundred dollars for each inquiry made in violation of  
363 subsection (b) of this section.

364 (d) The Attorney General, upon complaint of the Labor  
365 Commissioner, shall institute civil actions to recover the penalties  
366 provided for under subsection (c) of this section. Any amount  
367 recovered shall be deposited in the General Fund.

368 Sec. 4. (NEW) (*Effective October 1, 2018*) The Banking Commissioner  
369 shall adopt regulations in accordance with chapter 54 of the general  
370 statutes to require credit rating agencies to (1) provide to the Banking  
371 Commissioner dedicated points of contact through which the  
372 Department of Banking may assist consumers in the event of a data  
373 breach; (2) respond not later than ten days after the Department of  
374 Banking makes a request for information on behalf of a consumer; (3)  
375 report to the Banking Commissioner all fees associated with the

376 purchase or use of products and services marketed as identity theft  
 377 protection products and a description of all business affiliations and  
 378 contractual relationships with any other entities relating to the  
 379 provision of any identity theft prevention or mitigation products or  
 380 services; and (4) disclose to the Banking Commissioner the fees  
 381 associated with the purchase or use of any proprietary products  
 382 offered to consumers for the prevention of identity theft, including, if  
 383 offered on a trial basis, any fees charged to purchase or use such  
 384 product after the trial period ends.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	36a-701a
Sec. 2	October 1, 2018	36a-701b
Sec. 3	October 1, 2018	31-51tt
Sec. 4	October 1, 2018	New section

**BA**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill requires the Department of Banking to adopt regulations concerning transactions between private entities and individuals and results in no fiscal impact as the agency has the expertise to adopt regulations.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 472*****AN ACT CONCERNING SECURITY FREEZES ON CREDIT REPORTS, IDENTITY THEFT PREVENTION SERVICES, EMPLOYER CREDIT INQUIRIES AND REGULATIONS OF CREDIT RATING AGENCIES.*****SUMMARY**

This bill makes several changes related to credit security freezes, identity theft prevention services, and employment-related credit checks.

It requires credit rating agencies to place and remove a credit security freeze as soon as practicable after receiving a request and prohibits them from charging a fee to do so. It also (1) requires agencies to offer to notify the other credit agencies on a consumer's behalf, (2) requires agencies receiving such a notification to treat it as if it came from the consumer, and (3) prohibits such agencies from requiring, as a condition of placing a security freeze, a consumer to enter into an agreement limiting claims he or she may have against the agency.

The bill increases, from 12 to 24 months, the length of time certain individuals must provide identity theft mitigation services to customers in the event of a data breach. It also requires the banking commissioner to adopt regulations requiring credit rating agencies to (1) provide a dedicated point of contact following a data breach and (2) report certain financial information associated with identity theft protection and mitigation services.

The bill limits when certain employers can require an employee or applicant to undergo a credit check. But it broadens the credit check requirement for other individuals with access to museum and library

collections or prescription drugs or other pharmaceuticals.

The bill also makes minor and conforming changes.

EFFECTIVE DATE: October 1, 2018

## **§ 1 — SECURITY FREEZES**

By law, a “security freeze” is a notice placed in a consumer’s credit report, at the consumer’s request, that bars a credit rating agency from releasing the report, or any information in it, without the consumer’s express authorization (CGS § 36a-701).

### ***Time Frame***

The bill requires a credit rating agency to place and remove security freezes as soon as practicable after receiving a request to do so. By law, such agencies must (1) place a security freeze, including for a minor child, within five business days, and (2) remove a security freeze within three business days.

### ***Fees and Limiting Claims***

The bill prohibits credit rating agencies from charging a fee to place, remove, or temporarily lift a credit security freeze. Under current law, credit rating agencies may charge consumers up to \$10 to place, remove, or temporarily lift a credit freeze and up to \$12 to temporary lift a freeze for a specific party. But they are prohibited from charging fees to certain consumers, including children and identity theft or domestic violence victims.

Under the bill, a credit rating agency must offer the consumer the option to notify any and all other credit rating agencies of a consumer’s request to place or remove a security freeze. If the consumer agrees, the rating agency must notify the other rating agencies of the consumer’s request; any agency receiving such a notification must place or remove the security freeze as if it received the request from the consumer.

The bill also prohibits credit rating agencies from (1) requiring, as a



condition of placing a security freeze, that consumers agree to limit their claims against the agency and (2) charging fees for any personal identification numbers (PINs), instead of for first-time replacement PINs, as under current law.

### **§§ 2 & 4 — IDENTITY THEFT SERVICES AND DATA BREACH REGULATIONS**

The bill increases, from 12 to 24 months, the period for which certain individuals must offer identity theft mitigation services to customers in the event of a data breach. The bill applies to any individual who, in the course of ordinary business, owns or licenses electronic data that includes personal information.

The bill requires the banking commissioner to adopt regulations requiring credit rating agencies to (1) provide the banking commissioner dedicated points of contact through which it may assist consumers after a data breach, (2) respond within 10 days after the department makes a request for information on a consumer's behalf, (3) report to the commissioner all fees associated with the purchase or use of identity theft protection services, (4) provide a description of all business affiliations and contractual relationships with other entities that provide identity theft prevention or mitigation products or services, and (5) disclose to the commissioner any fees associated with the purchase or use of proprietary identity theft prevention products, including any fees resulting from a purchase after a trial offer.

### **§ 3 — EMPLOYMENT CREDIT CHECKS**

This bill prohibits employers or their agents, representatives, or designees from requiring, as a condition of employment, a current or prospective employee's consent to a request for a credit report solely because the job involves access to nonfinancial assets valued at more than \$2,500. It does so by removing jobs with access to such nonfinancial assets from the statutory definition of "substantially related."

By law, employers may require current or prospective employees to consent to a credit report request when the report is "substantially

related” to the employee's current or potential job, or the employer has a bona fide reason to request or use information in the report that is substantially job-related, and this reason is disclosed to the employee or applicant in writing.

By doing so, the bill also allows an employer to require such a credit check for an employee with access to museum and library collections, or prescription drugs or other pharmaceuticals, regardless of their value. Under current law, a credit check for these employees may only be required if the collection, prescription drugs, or pharmaceuticals are worth more than \$2,500.

**COMMITTEE ACTION**

Banking Committee

Joint Favorable Substitute

Yea 10 Nay 9 (03/20/2018)