



General Assembly

Substitute Bill No. 472

February Session, 2018



**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 Section 36a-701a of the general statutes is repealed and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	<i>October 1, 2018</i>	36a-701a
Sec. 2	<i>October 1, 2018</i>	36a-701b
Sec. 3	<i>October 1, 2018</i>	31-51tt
Sec. 4	<i>October 1, 2018</i>	New section

BA *Joint Favorable Subst.*