

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 2780

5 By: Representative D. Creekmore  
6  
7

## For An Act To Be Entitled

9  
10 AN ACT TO PERMIT PLACING A SECURITY FREEZE ON A  
11 PERSON'S CONSUMER REPORT; TO PROVIDE PROCEDURES FOR  
12 THE PLACEMENT AND REMOVAL OF THE SECURITY FREEZE; TO  
13 PROVIDE NOTICE OF THE RIGHT TO OBTAIN A SECURITY  
14 FREEZE; AND FOR OTHER PURPOSES.  
15

### Subtitle

16  
17  
18 TO PERMIT PLACING A SECURITY FREEZE ON A  
19 PERSON'S CONSUMER REPORT, TO PROVIDE  
20 PROCEDURES FOR THE PLACEMENT AND REMOVAL  
21 OF THE SECURITY FREEZE, AND TO PROVIDE  
22 NOTICE OF THE RIGHT TO OBTAIN A SECURITY  
23 FREEZE.  
24

25  
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Arkansas Code Title 4 is amended to add an additional  
29 chapter to read as follows:

30 4-112-101. Title.

31 This chapter shall be known and may be cited as the "Arkansas Consumer  
32 Report Security Freeze Act".  
33

34 4-112-102. Definitions.

35 As used in this chapter:

36 (1) "Consumer" means an individual who is a resident of this



1 state;

2 (2) "Consumer report" means the same as defined in 15 U.S.C. §  
 3 1681a(d) as it existed on January 1, 2007;

4 (3) "Consumer reporting agency" means the same as defined in 15  
 5 U.S.C. § 1681a(f) as it existed on January 1, 2007;

6 (4) "Proper identification" means the same as defined in 15  
 7 U.S.C. § 1681h(a)(1) as it existed on January 1, 2007; and

8 (5) "Security freeze" means a notice placed in a consumer report  
 9 of a consumer at the request of the consumer that prohibits a consumer  
 10 reporting agency from releasing the consumer report or credit score of the  
 11 consumer in response to a request to open a new account or to extend credit.

12  
 13 4-112-103. Placement of security freeze.

14 (a)(1) A consumer may request that a security freeze be placed on his  
 15 or her consumer report by sending a request in writing by certified mail to a  
 16 consumer reporting agency at an address designated by the consumer reporting  
 17 agency to receive such requests.

18 (2) This subsection does not prevent a consumer reporting agency  
 19 from advising a third party that a security freeze is in effect with respect  
 20 to the consumer report of a consumer.

21 (b)(1) Except as provided in subdivision (b)(2) of this section, a  
 22 consumer reporting agency shall place a security freeze on a consumer report  
 23 of a consumer no later than five (5) business days after receiving from the  
 24 consumer:

25 (A) A written request as provided in subsection (a) of  
 26 this section;

27 (B) Proper identification; and

28 (C) Payment of the required fee, if applicable.

29 (2) For any security freeze requested before May 1, 2008, the  
 30 deadline stated in this subsection shall be ten (10) business days if a  
 31 consumer reporting agency in good faith is unable to process during normal  
 32 business hours the quantity of security freeze requests received.

33 (c)(1) The consumer reporting agency shall send a written confirmation  
 34 of the placement of the security freeze to the consumer within ten (10)  
 35 business days.

36 (2) Upon placing the security freeze on the consumer report of

1 the consumer, the consumer reporting agency shall provide the consumer with a  
 2 unique personal identification number or password to be used by the consumer  
 3 when providing authorization for the release of his or her consumer report  
 4 for a specific period of time.

5 (d) If a consumer requests a security freeze, the consumer reporting  
 6 agency shall disclose the process:

7 (1) Of placing a security freeze and temporarily lifting a  
 8 security freeze; and

9 (2) For allowing access to information from the consumer report  
 10 of the consumer for a period of time while the security freeze is in place.

11  
 12 4-112-104. Access to consumer report.

13 (a) If the consumer wishes to allow his or her consumer report to be  
 14 accessed for a specific period of time while a security freeze is in place,  
 15 he or she shall contact the consumer reporting agency using a method of  
 16 contact designated by the consumer reporting agency requesting that the  
 17 security freeze be temporarily lifted and providing, to complete the request,  
 18 all of the following:

19 (1) Proper identification;

20 (2) The unique personal identification number or password  
 21 provided by the consumer reporting agency pursuant to § 4-112-103(c);

22 (3) The proper information regarding the time period for which  
 23 the consumer report shall be available to users of the consumer report; and

24 (4) The required fee, if applicable.

25 (b) A consumer reporting agency that receives a request from a  
 26 consumer to temporarily lift a security freeze on his or her consumer report  
 27 accompanied by all of the items listed in subsection (a) of this section  
 28 shall comply with the request no later than three (3) business days after  
 29 receiving the completed request.

30 (c) A consumer reporting agency may develop procedures involving the  
 31 use of telephone, facsimile, the Internet, or other electronic media to  
 32 receive and process a request from a consumer to temporarily lift a security  
 33 freeze on a consumer report pursuant to subsection (a) of this section in an  
 34 expedited manner.

35  
 36 4-112-105. Removal of security freeze.

1           (a)(1) A consumer reporting agency shall remove or temporarily lift a  
 2 security freeze placed on the consumer report of a consumer in the following  
 3 cases:

4                   (A) Upon the consumer's request pursuant to §§ 4-112-104  
 5 or 4-112-106; or

6                   (B) If the consumer report of the consumer was frozen due  
 7 to a material misrepresentation of fact by the consumer.

8           (2) If a consumer reporting agency intends to remove a security  
 9 freeze upon a consumer report of a consumer and is not doing so at the  
 10 request of the consumer, the consumer reporting agency shall notify the  
 11 consumer in writing prior to removing the security freeze on the consumer  
 12 report of the consumer.

13           (b) If a third party requests access to a consumer report on which a  
 14 security freeze is in effect and the third-party request is in connection  
 15 with an application for credit or any other use and the consumer does not  
 16 allow his or her consumer report to be accessed for that period of time, the  
 17 third party may treat the application as incomplete.

18  
 19           4-112-106. Consumer request for removal of security freeze.

20           (a)(1) A security freeze shall remain in place until the consumer  
 21 requests that the security freeze be removed using a method of contact  
 22 designated by the consumer reporting agency.

23           (2) A consumer reporting agency shall remove a security freeze  
 24 within three (3) business days of receiving a request for removal under  
 25 subdivision (a)(1) of this section from a consumer who provides with the  
 26 request:

27                   (A) Proper identification;

28                   (B) The unique personal identification number or password  
 29 provided by the consumer reporting agency under § 4-112-103; and

30                   (C) The required fee, if applicable.

31           (b) A consumer reporting agency shall require proper identification of  
 32 the consumer making a request to place or remove a security freeze.

33  
 34           4-112-107. Exceptions.

35           (a) This chapter does not apply to the use of a consumer credit report  
 36 by any of the following:

1           (1)(A) A person or entity, or a subsidiary, an affiliate, or an  
 2 agent of that person or entity, or an assignee of a financial obligation owed  
 3 by the consumer to that person or entity, or a prospective assignee of a  
 4 financial obligation owed by the consumer to that person or entity in  
 5 conjunction with the proposed purchase of the financial obligation, with  
 6 which the consumer has or had prior to assignment an account or a contract  
 7 including a demand deposit account, or to whom the consumer issued a  
 8 negotiable instrument, for the purposes of reviewing the account or  
 9 collecting the financial obligation owed for the account, contract, or  
 10 negotiable instrument.

11           (B) As used in this subdivision (a)(1), “reviewing the  
 12 account” includes activities related to account maintenance, monitoring,  
 13 credit line increases, and account upgrades and enhancements;

14           (2) A subsidiary, an affiliate, an agent, an assignee, or a  
 15 prospective assignee of a person or an entity to which access has been  
 16 granted for purposes of facilitating the extension of credit or other  
 17 permissible use;

18           (3) A state or local agency, law enforcement agency, trial  
 19 court, or private collection agency acting pursuant to a court order,  
 20 warrant, or subpoena;

21           (4) A child support agency acting pursuant to Title IV-D of the  
 22 Social Security Act, 42 U.S.C. § 651 et seq., as it existed on January 1,  
 23 2007;

24           (5) The state or its agents or assigns acting to investigate  
 25 fraud or acting to investigate or collect delinquent taxes or unpaid court  
 26 orders or to fulfill any of its other constitutional or statutory  
 27 responsibilities if such responsibilities are consistent with a permissible  
 28 purpose under 15 U.S.C. § 1681b, as it existed on January 1, 2007;

29           (6) Any person or entity, or the use of credit information by  
 30 any person or entity, for the purposes permitted under 15 U.S.C. § 1681b(c),  
 31 as it existed on January 1, 2007;

32           (7) Any person or entity administering a credit file monitoring  
 33 subscription or similar service to which the consumer has subscribed;

34           (8) Any person or entity for the purpose of providing a consumer  
 35 with a copy of his or her consumer report or credit score upon the request of  
 36 the consumer;

1           (9) Any person using the information in connection with the  
 2 business of insurance; or

3           (b) This chapter does not authorize access to or the disclosure of  
 4 information in a consumer reporting agency's database or file that is used  
 5 for one (1) or more of the following:

- 6                   (1) Maintaining criminal records;
- 7                   (2) Fraud prevention or detection;
- 8                   (3) Maintaining personal loss history information; or
- 9                   (4) Employment, tenant, or individual background screening.

10  
 11           4-112-108. Permissible fees.

12           A consumer reporting agency may charge a consumer a fee of no more than  
 13 ten dollars (\$10.00) for each security freeze, removal of a security freeze,  
 14 or temporary lifting of a security freeze for a period of time.

15  
 16           4-112-109. Written confirmation.

17           (a) If a security freeze is in place, a consumer reporting agency  
 18 shall not change any of the following official information in a consumer  
 19 report without sending a written confirmation of the change to the consumer  
 20 within thirty (30) days of posting the change to the file of the consumer:

- 21                   (1) Name;
- 22                   (2) Date of birth;
- 23                   (3) Social security number; and
- 24                   (4) Address.

25           (b)(1) Written confirmation is not required for technical  
 26 modifications of official information of a consumer, including name and  
 27 street abbreviations, complete spellings, or the transposition of numbers or  
 28 letters.

29           (2) In the case of an address change, the written confirmation  
 30 shall be sent to both the new address and to the former address.

31  
 32           4-112-110. Entities not required to place security freeze.

33           The following entities are not required to place a security freeze on a  
 34 consumer report:

35                   (1)(A) A consumer reporting agency that acts only as a reseller  
 36 of credit information by assembling and merging information contained in the

1 database of another consumer reporting agency or multiple consumer reporting  
 2 agencies and does not maintain a permanent database of credit information  
 3 from which new consumer reports are produced.

4 (B) However, a consumer reporting agency acting as a  
 5 reseller shall honor any security freeze placed on a consumer report by  
 6 another consumer reporting agency;

7 (2) A check services or fraud prevention services company that  
 8 issues reports on incidents of fraud or authorizations for the purpose of  
 9 approving or processing negotiable instruments, electronic funds transfers,  
 10 or similar methods of payments; or

11 (3) A deposit account information service company that issues  
 12 reports regarding account closures due to fraud, substantial overdrafts,  
 13 automatic teller machine abuse, or similar negative information regarding a  
 14 consumer to inquiring banks or other financial institutions for use only in  
 15 reviewing a consumer request for a deposit account at the inquiring bank or  
 16 financial institution.

17  
 18 4-112-111. Notice.

19 At any time that a consumer is required to receive a summary of rights  
 20 required under 15 U.S.C. § 1681g, as it existed on January 1, 2007, the  
 21 following notice shall be included:

22  
 23 “Arkansas Consumers Have the Right to Obtain a Security Freeze.

24  
 25 You have the right to place a “security freeze” on your credit report, which  
 26 will prohibit a consumer reporting agency from releasing information in your  
 27 credit report without your express authorization. A security freeze must be  
 28 requested in writing by certified mail. The security freeze is designed to  
 29 prevent credit, loans, and services from being approved in your name without  
 30 your consent. However, you should be aware that using a security freeze to  
 31 take control over who gets access to the personal and financial information  
 32 in your credit report may delay, interfere with, or prohibit the timely  
 33 approval of any subsequent request or application you make regarding a new  
 34 loan, credit, mortgage, government services or payments, rental housing,  
 35 employment, investment, license, cellular phone, utilities, digital  
 36 signature, Internet credit card transaction, or other services, including an

1 extension of credit at point of sale.

2  
 3 When you place a security freeze on your credit report, you will be provided  
 4 a personal identification number or password to use if you choose to remove  
 5 the security freeze on your credit report or authorize the release of your  
 6 credit report for a period of time after the security freeze is in place. To  
 7 provide that authorization you must contact the consumer reporting agency by  
 8 one (1) of the methods that it requires and provide all of the following:

- 9 (1) Your personal identification number or password;
- 10 (2) Proper identification to verify your identity;
- 11 (3) The proper information regarding the period of time for  
 12 which the consumer report shall be available; and
- 13 (4) Payment of the appropriate fee, if any.

14  
 15 A consumer reporting agency must authorize the release of your credit report  
 16 no later than three (3) business days after receiving all of the above items  
 17 by any method that the consumer reporting agency allows.

18  
 19 A security freeze does not apply to a person or an entity, or its affiliates,  
 20 or collection agencies acting on behalf of the person or entity with which  
 21 you have an existing account that requests information in your credit report  
 22 for the purposes of reviewing or collecting the account. Reviewing the  
 23 account includes activities related to account maintenance, monitoring,  
 24 credit line increases, and account upgrades and enhancements.

25  
 26 You have a right to bring a civil action against anyone, including a consumer  
 27 reporting agency, that willfully or negligently fails to comply with any  
 28 requirement of the Arkansas Consumer Report Security Freeze Act.

29  
 30 A consumer reporting agency has the right to charge you up to ten dollars  
 31 (\$10.00) to place a security freeze on your credit report, up to ten dollars  
 32 (\$10.00) to temporarily lift a security freeze on your credit report, and up  
 33 to ten dollars (\$10.00) to remove a security freeze from your credit report.  
 34 However, you shall not be charged any fee if you are a victim of identity  
 35 theft and have submitted, at the time the security freeze is requested, a  
 36 copy of a valid investigative report or incident report or complaint with a



1 law enforcement agency about the unlawful use of your identifying information  
 2 by another person.”

3  
 4 4-112-112. Civil action.

5 (a) Any person or entity that willfully fails to comply with any  
 6 requirement imposed under this chapter with respect to any consumer is liable  
 7 to that consumer in an amount equal to the sum of:

8 (1) Any actual damages sustained by the consumer; and

9 (2) In the case of any successful action to enforce any  
 10 liability under this chapter, the costs of the action together with  
 11 reasonable attorney’s fees as determined by the court.

12 (b) Any person or entity that obtains a consumer report, requests a  
 13 security freeze, or requests the temporary lift of a security freeze or the  
 14 removal of a security freeze from a consumer reporting agency under false  
 15 pretenses or in an attempt to violate federal or state law is liable to the  
 16 consumer reporting agency for actual damages sustained by the consumer  
 17 reporting agency or one thousand dollars (\$1,000), whichever is greater.

18 (c) Any person or entity that is negligent in failing to comply with  
 19 any requirement imposed under this chapter with respect to any consumer is  
 20 liable to that consumer in an amount equal to the sum of:

21 (1) Any actual damages sustained by the consumer as a result of  
 22 the failure; and

23 (2) In the case of any successful action to enforce any  
 24 liability under this chapter, the costs of the action together with  
 25 reasonable attorney’s fees as determined by the court.

26 (d) Upon a finding by the court that an unsuccessful pleading, motion,  
 27 or other paper filed in connection with an action under this chapter was  
 28 filed in bad faith or for purposes of harassment, the court shall award to  
 29 the prevailing party reasonable attorney’s fees in relation to the work  
 30 expended in responding to the pleading, motion, or other paper.

31  
 32 4-112-113. Enforcement – Penalties – Remedies.

33 (a) A violation of this subchapter constitutes an unfair act or  
 34 practice or a deceptive act or practice under § 4-88-101 et seq., pertaining  
 35 to deceptive trade practices.

36 (b)(1) All remedies, penalties, and authority granted to the Attorney

1 General under § 4-88-101 et seq., shall be available to the Attorney General  
2 for enforcement of this chapter.

3 (2) The remedies and penalties provided by this section are  
4 cumulative to each other and the remedies or penalties available under all  
5 other laws of this state.

6  
7 SECTION 2. EFFECTIVE DATE. This act takes effect January 1, 2008.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36