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# A BILL FOR AN ACT

RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in 2011, researchers  
2 at Carnegie Mellon University analyzed more than 800,000 credit  
3 records, including 40,000 belonging to minors. The researchers  
4 found that ten per cent of children in the study were victims of  
5 identity theft, compared to less than one per cent of adults.  
6 Identity thieves may be more likely to target minors because of  
7 minors' clean credit reports. Furthermore, child identity theft  
8 may go undetected for years because children do not use their  
9 social security numbers for credit, check credit reports, or  
10 review monthly bills as adults do.

11           The legislature further finds that individuals can protect  
12 themselves from many kinds of identity theft by placing a  
13 security freeze on their credit reports through a consumer  
14 credit reporting agency. However, an individual must have a  
15 credit report prior to requesting a freeze, which can be  
16 problematic for minors or other protected persons who often do  
17 not have this type of established consumer record.



1 The legislature additionally finds that Maryland was the  
2 first state to enact legislation that specifically protected  
3 minors from credit fraud. Since that time, twenty-one other  
4 states have enacted similar measures. The legislature concludes  
5 that Hawaii should join this growing trend of states to help  
6 parents and guardians protect minor children and other protected  
7 persons from credit fraud and identity theft.

8 Accordingly, the purpose of this Act is to:

9 (1) Require a consumer credit reporting agency to create a  
10 record for protected consumers, including minors under  
11 the age of sixteen and incapacitated persons, who do  
12 not have an existing credit file; and

13 (2) Permit a representative of a protected consumer to  
14 place a security freeze on the protected consumer's  
15 credit report or any record created by the consumer  
16 credit reporting agency for the protected consumer.

17 SECTION 2. Chapter 489P, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20 "§489P- Security freeze for protected consumers; removal  
21 of security freezes; fees; applicability and scope. (a) A



1 consumer credit reporting agency shall place a security freeze  
2 on a protected consumer's credit report or records if:

3 (1) The consumer credit reporting agency receives a  
4 request from the protected consumer's representative  
5 for the placement of the security freeze under this  
6 section; and

7 (2) The protected consumer's representative:

8 (A) Submits the request to the consumer credit  
9 reporting agency at the address or other point of  
10 contact specified by the consumer credit  
11 reporting agency;

12 (B) Provides to the consumer credit reporting agency  
13 sufficient proof of identification of the  
14 protected consumer and the protected consumer's  
15 representative;

16 (C) Provides to the consumer credit reporting agency  
17 sufficient proof of authority to act on behalf of  
18 the protected consumer; and

19 (D) Pays to the consumer credit reporting agency a  
20 fee as provided in subsection (h).



1        (b) If a consumer credit reporting agency does not have a  
2 credit file pertaining to the protected consumer when the  
3 consumer credit reporting agency receives a request pursuant to  
4 this section, the consumer credit reporting agency shall create  
5 a record for the protected consumer.

6        (c) Within thirty days after receiving a request that  
7 meets the requirements of this section, a consumer credit  
8 reporting agency shall place a security freeze for the protected  
9 consumer.

10       (d) Unless a security freeze for a protected consumer is  
11 removed in accordance with this section, a consumer credit  
12 reporting agency may not release the protected consumer's credit  
13 report, any information derived from the protected consumer's  
14 credit report, or any record created for the protected consumer.

15       (e) A security freeze for a protected consumer placed  
16 under subsection (a) shall remain in effect until the security  
17 freeze is removed in accordance with subsection (f) or (i).

18       (f) If a protected consumer or a protected consumer's  
19 representative wishes to remove a security freeze for the  
20 protected consumer, the protected consumer or the protected  
21 consumer's representative shall:



- 1        (1) Submit a request for the removal of the security
- 2            freeze to the consumer credit reporting agency at the
- 3            address or other point of contact specified by the
- 4            consumer credit reporting agency;
- 5        (2) Provide to the consumer credit reporting agency:
- 6            (A) In the case of a request by the protected
- 7                    consumer:
- 8                    (i) Proof that the sufficient proof of authority
- 9                            for the protected consumer's representative
- 10                            to act on behalf of the protected consumer
- 11                            is no longer valid; and
- 12                    (ii) Sufficient proof of identification of the
- 13                            protected consumer; or
- 14            (B) In the case of a request by the representative of
- 15                    a protected consumer:
- 16                    (i) Sufficient proof of identification of the
- 17                            protected consumer and the representative;
- 18                            and
- 19                    (ii) Sufficient proof of authority to act on
- 20                            behalf of the protected consumer; and



1       (3) Pay to the consumer credit reporting agency a fee as  
2       provided in subsection (h).

3       (g) Within thirty business days after receiving a request  
4       that meets the requirements of subsection (f), the consumer  
5       credit reporting agency shall remove the security freeze for the  
6       protected consumer.

7       (h) A consumer credit reporting agency may charge a  
8       reasonable fee, not to exceed \$5, for each placement or removal  
9       of a security freeze for a protected consumer; provided that a  
10       consumer credit reporting agency shall not charge a fee under  
11       this section if:

12       (1) The protected consumer's representative has a valid  
13       copy of a police report, investigative report, or  
14       complaint which the protected consumer or the  
15       protected consumer's representative has filed with a  
16       law enforcement agency regarding the unlawful use of  
17       the protected consumer's personal information by  
18       another person, and provides a copy of the report to  
19       the consumer credit reporting agency; or

20       (2) A request for the placement or removal of a security  
21       freeze is for a protected consumer who is under the



1 age of sixteen at the time of the request and the  
2 consumer credit reporting agency has a credit report  
3 pertaining to the protected consumer.

4 (i) A consumer credit reporting agency may remove a  
5 security freeze for a protected consumer or delete a record of a  
6 protected consumer if the security freeze was placed or the  
7 record was created based on a material misrepresentation of fact  
8 by the protected consumer or the protected consumer's  
9 representative.

10 (j) This section shall not apply to:

11 (1) A person administering a credit file monitoring  
12 subscription service to which:

13 (A) The protected consumer has subscribed; or

14 (B) The representative of the protected consumer has  
15 subscribed on behalf of the protected consumer;

16 (2) A person providing the protected consumer or the  
17 protected consumer's representative with a copy of the  
18 protected consumer's credit report or records at the  
19 request of the protected consumer or the protected  
20 consumer's representative;



1        (3) An entity or purpose listed in section 489P-3(1)(8),  
2                    (9), or (10) or section 489P-5; or

3        (4) A consumer reporting agency database or file that  
4                    consists entirely of consumer information concerning,  
5                    and used solely for:

6                    (A) Criminal record information;

7                    (B) Personal loss history information;

8                    (C) Fraud prevention or detection;

9                    (D) Employment screening; or

10                   (E) Tenant screening.

11        (k) A person who violates this section shall be subject to  
12 the penalties set forth in section 489P-6.

13        (l) As used in this section, unless the context otherwise  
14 requires:

15        "Protected consumer" means an individual who is:

16        (1) Under the age of sixteen at the time a request for the  
17                    placement of a security freeze is made; or

18        (2) Incapacitated or for whom a court or other authority  
19                    has appointed a guardian or conservator.

20        "Record" means a compilation of information that:

21        (1) Identifies a protected consumer;





1       (2) Is created by a consumer credit reporting agency  
2       solely for the purpose of complying with this section;  
3       and

4       (3) May not be created or used to consider the protected  
5       consumer's credit worthiness, credit standing, credit  
6       capacity, character, general reputation, personal  
7       characteristics, or mode of living for any purposes  
8       listed in title 15 United States Code section 1681b.

9       "Representative" means a person who provides to a consumer  
10      credit reporting agency sufficient proof of authority to act on  
11      behalf of a protected consumer.

12      "Security freeze" means:

13      (1) If a consumer credit reporting agency does not have a  
14      file pertaining to a protected consumer, a restriction  
15      that:

16      (A) Is placed on the protected consumer's record in  
17      accordance with this section; and

18      (B) Prohibits the consumer credit reporting agency  
19      from releasing the protected consumer's record,  
20      except as provided in this section; or



1        (2) If a consumer credit reporting agency has a file  
2        pertaining to the protected consumer, a restriction  
3        that:

4        (A) Is placed on the protected consumer's credit  
5        report in accordance with this section; and

6        (B) Prohibits the consumer credit reporting agency  
7        from releasing the protected consumer's credit  
8        report or any information derived from the  
9        protected consumer's credit report, except as  
10       provided in this section.

11       "Sufficient proof of authority" means clear and proper  
12       information regarding the representative's authority to act on  
13       the protected consumer's behalf including but not limited to:

14       (1) A court order that identifies or describes the  
15       relationship between the representative and the  
16       protected consumer;

17       (2) A duly executed power of attorney that permits the  
18       representative to act on the protected consumer's  
19       behalf; or

20       (3) A notarized affidavit of the representative, stating  
21       the relationship between the representative and the



1 protected consumer and the representative's authority  
2 to act on the protected consumer's behalf.

3 "Sufficient proof of identification" means information or  
4 documentation that identifies a protected consumer or a  
5 representative of a protected consumer, including any one of the  
6 following:

7 (1) A social security number or a copy of a social  
8 security card issued by the Social Security  
9 Administration;

10 (2) A certified or official copy of a birth certificate  
11 issued by the entity authorized to issue the birth  
12 certificate;

13 (3) A copy of a driver's license, a civil identification  
14 card issued by the examiner of drivers, or any other  
15 government-issued identification; or

16 (4) A copy of a bill, including a bill for telephone,  
17 sewer, septic tank, water, electric, oil, or natural  
18 gas services, that shows a name and home address."

19 SECTION 3. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on January 1, 2018.

21



**Report Title:**

Consumer Credit Reporting Agencies; Identity Theft; Protected Consumer; Security Freeze; Credit Report; Record

**Description:**

Requires a consumer credit reporting agency to create a record for protected consumers, including minors under the age of sixteen and incapacitated persons, who do not have an existing credit file. Permits a representative of a protected consumer to place a security freeze on the protected consumer's credit report or any record created for the protected consumer. Effective 1/1/2018. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

