

ASSEMBLY BILL

No. 1553

**Introduced by Assembly Member Irwin
(Coauthors: Assembly Members Burke, Chiu, Low, and Williams)**

January 4, 2016

An act to amend Section 1785.11.2 of the Civil Code, relating to consumer credit reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 1553, as introduced, Irwin. Consumer credit reports: security freezes: protected person.

Existing state law defines and regulates consumer credit reports and authorizes a consumer to place a security freeze on his or her credit report by making a request in writing by mail to a consumer credit reporting agency. Existing state law requires a consumer credit reporting agency to place the security freeze on the consumer's credit report no later than 3 business days after receiving the consumer's request.

This bill would additionally authorize a representative of a protected person, defined as an individual who is under 16 years of age at the time a request for the placement of a security freeze is made or an incapacitated person or a protected individual for whom a guardian or conservator has been appointed, to place a security freeze on the credit report of the protected person by making a request in writing by mail to a consumer credit reporting agency. However, irrespective of whether the security freeze was requested by a representative, the bill would authorize an individual who is under 16 years of age or an individual over 16 years of age for whom a security freeze was requested by a representative to act on behalf of himself or herself with respect to temporarily lifting the freeze for a specific party or removing the freeze.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.11.2 of the Civil Code is amended
2 to read:
3 1785.11.2. (a) (1) A consumer may elect to place a security
4 freeze on his or her credit report by making a request in writing
5 by mail to a consumer credit reporting agency. *A representative*
6 *of a protected person who is a consumer may elect to place a*
7 *security freeze on the credit report of a protected person by making*
8 *a request in writing by mail to a consumer credit reporting agency.*
9 “Security freeze” means a notice placed in a consumer’s credit
10 report, at the request of the ~~consumer~~, *consumer or representative*,
11 and subject to certain exceptions, that prohibits the consumer credit
12 reporting agency from releasing the consumer’s credit report or
13 any information from it without the express authorization of the
14 consumer. If a security freeze is in place, information from a
15 consumer’s credit report may not be released to a third party
16 without prior express authorization from the ~~consumer~~. *consumer*
17 *or representative*. This subdivision does not prevent a consumer
18 credit reporting agency from advising a third party that a security
19 freeze is in effect with respect to the consumer’s credit report.
20 (2) *For the purposes of this section, the following definitions*
21 *shall apply:*
22 (A) *“Protected person” means an individual who is under 16*
23 *years of age at the time a request for the placement of a security*
24 *freeze is made or an incapacitated person or a protected individual*
25 *for whom a guardian or conservator has been appointed.*
26 (B) *“Representative” means a person who provides to a*
27 *consumer credit reporting agency sufficient proof of authority to*
28 *act on behalf of a protected person.*
29 (C) *“Sufficient proof of authority” means documentation that*
30 *shows a representative has authority to act on behalf of a protected*
31 *person and includes an order issued by a court of law, a lawfully*
32 *executed and valid power of attorney, or a written, notarized*
33 *statement signed by a representative that expressly describes the*
34 *authority of the representative to act on behalf of a protected*
35 *person.*

1 (b) A consumer credit reporting agency shall place a security
2 freeze on a consumer's credit report no later than three business
3 days after receiving a written request from the ~~consumer~~. *consumer*
4 *or representative*.

5 (c) The consumer credit reporting agency shall send a written
6 confirmation of the security freeze to the consumer *or*
7 *representative* within 10 business days and shall provide the
8 consumer *or representative* with a unique personal identification
9 number or password to be used by the consumer *or representative*
10 when providing authorization for the release of his or her credit
11 for a specific party or period of time.

12 (d) If the consumer *or representative* wishes to allow his or her
13 credit report to be accessed for a specific party or period of time
14 while a freeze is in place, he or she shall contact the consumer
15 credit reporting agency, request that the freeze be temporarily
16 lifted, and provide the following:

17 (1) Proper identification, as defined in subdivision (c) of Section
18 1785.15.

19 (2) The unique personal identification number or password
20 provided by the credit reporting agency pursuant to subdivision
21 (c).

22 (3) The proper information regarding the third party who is to
23 receive the credit report or the time period for which the report
24 shall be available to users of the credit report.

25 (e) A consumer credit reporting agency that receives a request
26 from a consumer *or representative* to temporarily lift a freeze on
27 a credit report pursuant to subdivision (d) shall comply with the
28 request no later than three business days after receiving the request.

29 (f) A consumer credit reporting agency may develop procedures
30 involving the use of telephone, fax, the Internet, or other electronic
31 media to receive and process a request from a consumer *or*
32 *representative* to temporarily lift a freeze on a credit report pursuant
33 to subdivision (d) in an expedited manner.

34 (g) A consumer credit reporting agency shall remove or
35 temporarily lift a freeze placed on a consumer's credit report only
36 in the following cases:

37 (1) Upon consumer *or representative* request, pursuant to
38 subdivision (d) or (j).

39 (2) If the consumer's credit report was frozen due to a material
40 misrepresentation of fact by the consumer *or representative*. If a

1 consumer credit reporting agency intends to remove a freeze upon
2 a consumer's credit report pursuant to this paragraph, the consumer
3 credit reporting agency shall notify the consumer *or representative*
4 in writing prior to removing the freeze on the consumer's credit
5 report.

6 (h) A third party who requests access to a consumer credit report
7 in connection with an application for credit or any other use may
8 treat the application as incomplete if a security freeze is in effect
9 and the consumer *or representative* does not allow his or her credit
10 report to be accessed for that specific party or period of time.

11 (i) If a consumer *or representative* requests a security freeze,
12 the consumer credit reporting agency shall disclose the process of
13 placing and temporarily lifting a freeze and the process for allowing
14 access to information from the consumer's credit report for a
15 specific party or period of time while the freeze is in place.

16 (j) A security freeze shall remain in place until the consumer
17 *or representative* requests that the security freeze be removed. A
18 consumer credit reporting agency shall remove a security freeze
19 within three business days of receiving a request for removal from
20 the consumer *or representative* if the consumer *or representative*
21 provides both of the following:

22 (1) Proper identification, as defined in subdivision (c) of Section
23 1785.15.

24 (2) The unique personal identification number or password
25 provided by the credit reporting agency pursuant to subdivision
26 (c).

27 (k) A consumer credit reporting agency shall require proper
28 identification, as defined in subdivision (c) of Section 1785.15, of
29 the person making a request to place or remove a security freeze.

30 (l) The provisions of this section do not apply to the use of a
31 consumer credit report by any of the following:

32 (1) (A) (i) A person or entity with which the consumer has or
33 had, prior to any assignment, an account or contract, including a
34 demand deposit account, or to which the consumer issued a
35 negotiable instrument, for the purpose of reviewing the account
36 or collecting the financial obligation owing for the account,
37 contract, or negotiable instrument.

38 (ii) A subsidiary, affiliate, or agent of a person or entity
39 described in clause (i), an assignee of a financial obligation owing
40 by the consumer to such a person or entity, or a prospective

1 assignee of a financial obligation owing by the consumer to such
2 a person or entity in conjunction with the proposed purchase of
3 the financial obligation, for the purpose of reviewing the account
4 or collecting the financial obligation owing for the account,
5 contract, or negotiable instrument.

6 (B) For purposes of this paragraph, “reviewing the account”
7 includes activities related to account maintenance, monitoring,
8 credit line increases, and account upgrades and enhancements.

9 (2) A subsidiary, affiliate, agent, assignee, or prospective
10 assignee of a person to whom access has been granted under
11 subdivision (d) for purposes of facilitating the extension of credit
12 or other permissible use.

13 (3) Any state or local agency, law enforcement agency, trial
14 court, or private collection agency acting pursuant to a court order,
15 warrant, or subpoena.

16 (4) A child support agency acting pursuant to Chapter 2
17 (commencing with Section 17400) of Division 17 of the Family
18 Code or Title IV-D of the Social Security Act (42 U.S.C. et seq.).

19 (5) The State Department of Health Care Services or its agents
20 or assigns acting to investigate Medi-Cal fraud.

21 (6) The Franchise Tax Board or its agents or assigns acting to
22 investigate or collect delinquent taxes or unpaid court orders or to
23 fulfill any of its other statutory responsibilities.

24 (7) The use of credit information for the purposes of
25 prescreening as provided for by the federal Fair Credit Reporting
26 Act.

27 (8) Any person or entity administering a credit file monitoring
28 subscription service to which the consumer has subscribed.

29 (9) Any person or entity for the purpose of providing a consumer
30 with a copy of his or her credit report upon the consumer’s request.

31 (m) (1) Except as provided in paragraph (2), this title does not
32 prevent a consumer credit reporting agency from charging a fee
33 of no more than ten dollars (\$10) to a consumer *or representative*
34 for the placement of each freeze, the removal of the freeze, the
35 temporary lift of the freeze for a period of time, or the temporary
36 lift of the freeze for a specific party, regarding access to a consumer
37 credit report, except that a consumer credit reporting agency may
38 not charge a fee to a victim of identity theft who has submitted a
39 valid police report or valid Department of Motor Vehicles

1 investigative report that alleges a violation of Section 530.5 of the
2 Penal Code.

3 (2) With respect to a consumer who is 65 years of age or older
4 and who has provided identification confirming his or her age, a
5 consumer credit reporting agency shall not charge a fee for the
6 placement of an initial security freeze, but may charge a fee not
7 to exceed five dollars (\$5) for the removal of the freeze, the
8 temporary lift of the freeze for a period of time, the temporary lift
9 of the freeze for a specific party, or replacing the freeze.

10 (n) Regardless of the existence of a security freeze, a consumer
11 reporting agency may disclose public record information lawfully
12 obtained by, or for, the consumer reporting agency from an open
13 public record to the extent otherwise permitted by law. This
14 subdivision does not prohibit a consumer reporting agency from
15 electing to apply a valid security freeze to the entire contents of a
16 credit report.

17 (o) *Notwithstanding any other law and irrespective of whether*
18 *the security freeze was requested by a representative pursuant to*
19 *subdivision (a), an individual who is under 16 years of age or an*
20 *individual for whom a security freeze was requested by a*
21 *representative who is over 16 years of age may act on behalf of*
22 *himself or herself with respect to subdivisions (d) and (j).*