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

LEGISLATIVE COUNSEL’S DIGEST

AB 1581, as introduced, Rodriguez. Consumer credit reports: security freezes: fees.
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. Existing law authorizes a consumer credit reporting agency to charge a specified fee to a consumer for the placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party, regarding access to a consumer credit report, except as specified. Under existing law, with regard to a consumer who is 65 years of age or older, a consumer credit reporting agency is prohibited from charging a fee for the placement of an initial security freeze, but is authorized to charge a fee not to exceed a specified amount for the removal of the freeze, the temporary lift of the freeze for a period of time, the temporary lift of the freeze for a specific party, or replacing the freeze.
This bill would prohibit a consumer credit reporting agency from charging any of those fees.
The people of the State of California do enact as follows:

SECTION 1. Section 1785.11.2 of the Civil Code is amended to read:

1785.11.2. (a) A consumer may elect 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. “Security freeze” means a notice placed in a consumer’s credit report, at the request of the consumer, and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer’s credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer’s credit report may not be released to a third party without prior express authorization from the consumer. This subdivision does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer’s credit report.

(b) A consumer credit reporting agency shall place a security freeze on a consumer’s credit report no later than three business days after receiving a written request from the consumer.

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

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

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

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).
The proper information regarding the third party who is to receive the credit report or the time period for which the report shall be available to users of the credit report.

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

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

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

(1) Upon consumer request, pursuant to subdivision (d) or (j).

(2) If the consumer’s credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer’s credit report pursuant to this paragraph, the consumer credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer’s credit report.

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

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

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

(1) Proper identification, as defined in subdivision (c) of Section 1785.15.
(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

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

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

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

(ii) A subsidiary, affiliate, or agent of a person or entity described in clause (i), an assignee of a financial obligation owing by the consumer to such a person or entity, or a prospective assignee of a financial obligation owing by the consumer to such a person or entity in conjunction with the proposed purchase of the financial obligation, for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

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

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

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

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

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

(6) The Franchise Tax Board or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.
(7) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

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

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

(m) (1) Except as provided in paragraph (2), this title does not prevent a consumer credit reporting agency from charging a fee of no more than ten dollars ($10) shall not charge a fee to a consumer any consumer for the placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party, regarding access to a consumer credit report, except that a consumer credit reporting agency may not charge a fee report. A consumer credit reporting agency shall also not charge a fee to a victim of identity theft who has submitted a valid police report or valid Department of Motor Vehicles investigative report that alleges a violation of Section 530.5 of the Penal Code.

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

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