

ASSEMBLY BILL

No. 1581

Introduced by Assembly Member Rodriguez

January 5, 2016

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.

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) A consumer may elect to place a security freeze
4 on his or her credit report by making a request in writing by mail
5 to a consumer credit reporting agency. “Security freeze” means a
6 notice placed in a consumer’s credit report, at the request of the
7 consumer, and subject to certain exceptions, that prohibits the
8 consumer credit reporting agency from releasing the consumer’s
9 credit report or any information from it without the express
10 authorization of the consumer. If a security freeze is in place,
11 information from a consumer’s credit report may not be released
12 to a third party without prior express authorization from the
13 consumer. This subdivision does not prevent a consumer credit
14 reporting agency from advising a third party that a security freeze
15 is in effect with respect to the consumer’s credit report.
16 (b) A consumer credit reporting agency shall place a security
17 freeze on a consumer’s credit report no later than three business
18 days after receiving a written request from the consumer.
19 (c) The consumer credit reporting agency shall send a written
20 confirmation of the security freeze to the consumer within 10
21 business days and shall provide the consumer with a unique
22 personal identification number or password to be used by the
23 consumer when providing authorization for the release of his or
24 her credit for a specific party or period of time.
25 (d) If the consumer wishes to allow his or her credit report to
26 be accessed for a specific party or period of time while a freeze is
27 in place, he or she shall contact the consumer credit reporting
28 agency, request that the freeze be temporarily lifted, and provide
29 the following:
30 (1) Proper identification, as defined in subdivision (c) of Section
31 1785.15.
32 (2) The unique personal identification number or password
33 provided by the credit reporting agency pursuant to subdivision
34 (c).

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

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

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

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

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

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

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

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

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

38 (1) Proper identification, as defined in subdivision (c) of Section
39 1785.15.

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

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

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

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

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

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

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

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

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

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

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

1 (7) The use of credit information for the purposes of
2 prescreening as provided for by the federal Fair Credit Reporting
3 Act.

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

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

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

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

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