

B-Engrossed Senate Bill 1057

Ordered by the Senate July 1
Including Senate Amendments dated June 2 and July 1

Sponsored by COMMITTEE ON RULES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires person that owns or uses personal information to notify individual and consumer reporting agencies when there is breach of security relating to personal information.]

[Requires consumer reporting agency receiving notice of breach to place security alert in relevant credit reports.]

[Requires consumer reporting agency, at request of consumer, to place security freeze on consumer reports about consumer. Creates exceptions to requirements.]

[Prohibits disclosure of Social Security number of individual. Provides exceptions. Punishes violation by maximum of one year's imprisonment, \$6,250 fine, or both.]

[Requires person maintaining or possessing records containing personal information to take measures to protect against unauthorized access to or use of information prior to disposal or destruction of information.]

[Makes violation of provisions of Act unlawful trade practice.]

[Requires Department of Transportation to disclose personal information to consumer reporting agency for purpose of providing notification to agency of breach of security.]

Allows consumer to place security freeze in consumer's credit report. Requires consumer reporting agency to place freeze within specified time period after receiving consumer's request. Allows consumer to request temporary lift of freeze to permit access to credit report by third party or by all persons. Provides that reporting agency may, while security freeze is in place, provide information from credit report to specified persons without consumer's consent.

Allows consumer to bring civil action to recover actual damages, plus fees and costs incurred in action, for violation of provisions.

A BILL FOR AN ACT

1
2 Relating to security of personal information.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 4 of this 2005 Act:**

5 (1) "Consumer" means an individual who is a resident of this state and on whom a con-
6 sumer reporting agency maintains a credit report.

7 (2) "Consumer reporting agency" means a consumer reporting agency as described in the
8 federal Fair Credit Reporting Act, 15 U.S.C. 1681a.

9 (3)(a) "Credit report" means the communication of information by a consumer reporting
10 agency that:

11 (A) Bears on a consumer's creditworthiness, credit standing, credit capacity, debts,
12 character, general reputation, personal characteristics or mode of living; and

13 (B) Is used, expected to be used or collected to be used as a factor to establish the con-
14 sumer's eligibility for credit or insurance that the consumer will use for personal, family or
15 household purposes, employment purposes or any other purpose authorized pursuant to the
16 federal Fair Credit Reporting Act, 15 U.S.C. 1681a and 1681b.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (b) "Credit report" does not mean a communication of information that:

2 (A) Solely relates to a transaction between the consumer and the person making the re-
3 port;

4 (B) Authorizes or approves a specific extension of credit by the issuer of a credit card
5 or similar device; or

6 (C) Conveys a decision by a person on whether to make a specific extension of credit to
7 a consumer in response to a request by a third party if:

8 (i) The third party advises the consumer of the name and address of the person to whom
9 the request is made; and

10 (ii) In the event of an adverse action on the request, the person makes the disclosures
11 that must be made to the consumer pursuant to the federal Fair Credit Reporting Act, 15
12 U.S.C. 1681m.

13 (4) "Creditworthiness" means an entry in a consumer's file that affects the ability of the
14 consumer to obtain and retain credit, employment, business or professional licenses, invest-
15 ment opportunities or insurance. Entries contained in a consumer's file or in a credit report
16 pertaining to the consumer that affect creditworthiness include, but are not limited to,
17 debts, payment information, defaults, judgments, liens, bankruptcies, collections, records of
18 arrest or indictments and multiple credit inquiries.

19 (5) "Security freeze" means a notice placed in a consumer's credit report at the request
20 of the consumer that prohibits the consumer reporting agency, except as provided in section
21 2 of this 2005 Act, from releasing the consumer's credit report or any information from the
22 credit report without the express authorization of the consumer.

23 **SECTION 2.** (1) Any consumer may place a security freeze in the consumer's credit re-
24 port. The consumer may place the security freeze by making a request in writing by certified
25 mail to a consumer reporting agency.

26 (2) A consumer reporting agency shall place a security freeze in the consumer's credit
27 report within five business days after receiving a consumer's request under subsection (1)
28 of this section. The consumer reporting agency shall send a written confirmation of the se-
29 curity freeze and a unique personal identification number or password to the consumer
30 within 10 business days after receiving the consumer's request. The written confirmation
31 shall also provide to the consumer in plain and simple language:

32 (a) The consumer's rights and the consumer reporting agency's obligations under this
33 section;

34 (b) Notification that the security freeze will remain in the consumer's credit report until
35 the consumer requests the security freeze be temporarily lifted or removed;

36 (c) The procedures for temporarily lifting or removing the security freeze;

37 (d) The fees that the consumer reporting agency may charge for placing, temporarily
38 lifting or removing a security freeze; and

39 (e) A statement that a security freeze in the consumer's credit report may delay, inter-
40 fere with or prohibit the timely approval of a request or application for a loan, credit, a
41 mortgage, insurance, a government service or payment, rental housing, employment, in-
42 vestment, a license, a cellular telephone, utilities, a digital signature, an Internet credit card
43 transaction or other service, including an extension of credit at a point of sale.

44 (3) If a security freeze is in place, the consumer reporting agency may not release in-
45 formation from a consumer's credit report to a third party without the consumer's express

1 authorization, except as provided in subsection (4) of this section.

2 (4) While a security freeze is in place in a consumer's credit report, a consumer report-
3 ing agency may provide information from that report without the consumer's consent when
4 the person requesting the credit report is:

5 (a) A person or a subsidiary, agent or assignee of the person with which the consumer
6 has or, prior to assignment, had an account, contract or debtor-creditor relationship;

7 (b) A public body as defined in ORS 174.109;

8 (c) A collection agency, as defined in ORS 697.005, that is collecting an obligation for a
9 public body, including but not limited to collecting child support payments under ORS 25.020;

10 (d) Acting pursuant to a court order, warrant or subpoena; or

11 (e) A person making firm offers of credit or insurance from prescreened lists as provided
12 for by the federal Fair Credit Reporting Act.

13 (5)(a) To permit access to a credit report by a third party or by all persons for a specified
14 period of time, the consumer who requested the security freeze must contact the consumer
15 reporting agency and request a temporary lift. The consumer shall include in the request the
16 consumer's unique personal identification number or password provided by the consumer
17 reporting agency and information regarding the third party or the period of time to which
18 the temporary lift applies.

19 (b) The request for a temporary lift may be made by telephone, mail, facsimile or elec-
20 tronic mail pursuant to reasonable procedures established by the consumer reporting agency.

21 (c) The consumer reporting agency must act upon the request for a temporary lift within
22 three business days of receiving the request from the consumer.

23 (6)(a) While a security freeze is in place in a consumer's credit report, a consumer re-
24 porting agency may not change the consumer's name, date of birth, Social Security number
25 or address in the consumer's credit report without:

26 (A) Verifying that the person requesting the change is the consumer, including verifying
27 the consumer's unique personal identification number or password provided by the consumer
28 reporting agency; and

29 (B) Sending written confirmation of the change to the consumer within 30 days of making
30 the alteration to the consumer's credit report. If the consumer reporting agency changed the
31 consumer's address, the consumer reporting agency must send a written confirmation to
32 both the consumer's new address and former address.

33 (b) This subsection does not apply if the consumer reporting agency makes corrections
34 to the consumer's name, date of birth, Social Security number and address, including cor-
35 recting spelling errors and transposition of numbers or letters.

36 (7) A security freeze shall remain in a consumer's credit report until the consumer
37 makes a written request for removal. If a consumer requests removal of a security freeze,
38 the consumer must include with the request the consumer's unique personal identification
39 number or password provided by the consumer reporting agency. The consumer reporting
40 agency shall remove the security freeze from the consumer's credit report within three
41 business days of receiving the written request.

42 (8) A consumer reporting agency may not charge a consumer a fee for placing a security
43 freeze if the request is the first request made by the consumer for the placement of a se-
44 curity freeze. However, a consumer reporting agency may charge the consumer a reasonable
45 fee not to exceed \$10 for each subsequent placement, temporary lift or removal of a security

1 freeze as described in this section.

2 **SECTION 3.** (1) Section 2 of this 2005 Act does not apply to:

3 (a) A person whose principal business is investigating fraud and reporting the results of
4 investigations for use in deciding whether to approve or process a negotiable instrument,
5 electronic funds transfer or similar method of payment or to approve a deposit account; or

6 (b) A consumer reporting agency that:

7 (A) Furnishes only credit reports created and maintained by other consumer reporting
8 agencies; and

9 (B) Does not maintain records from which new credit reports are produced.

10 (2) Notwithstanding subsection (1)(b) of this section, if a consumer has requested that a
11 consumer reporting agency place a security freeze in a consumer's credit report, a consumer
12 reporting agency that furnishes only credit reports created and maintained by other con-
13 sumer reporting agencies shall furnish the credit report only to persons or during periods
14 of time designated by the consumer.

15 **SECTION 4.** Any consumer injured by a violation of any provision of section 2 or 3 of this
16 2005 Act may bring a civil action to recover actual damages arising from the violation, plus
17 attorney fees and costs reasonably incurred in the action.

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