

HOUSE BILL 212

I3, I2, P1
HB 782/16 – ECM

7lr0342
CF 7lr0341

By: **Delegates Waldstreicher, Angel, Barkley, Carr, Clippinger, Conaway, Cullison, Fraser-Hidalgo, Frush, Glenn, Gutierrez, Haynes, Healey, Hettleman, Hill, Holmes, Jackson, Jalisi, Kaiser, Kramer, Lafferty, Lam, Lierman, Lisanti, McCray, A. Miller, Morales, Pena-Melnyk, Platt, Proctor, Queen, Robinson, Rosenberg, Sanchez, Sydnor, Turner, Valderrama, C. Wilson, K. Young, and Lewis**

Introduced and read first time: January 20, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Credit Report Security Freezes – Prohibition on Fees**
3 **and Required Notices**

4 FOR the purpose of prohibiting a consumer reporting agency from charging a consumer a
5 fee for placing a security freeze, temporarily lifting a security freeze a certain number
6 of times, or removing a security freeze if the consumer has received a certain notice
7 of a breach of the security of a system under certain provisions of State law or from
8 or on behalf of a federal agency and provides a copy of the notice to the consumer
9 reporting agency; altering the contents of a certain notice that must be included with
10 a certain summary of rights provided to a consumer; requiring that certain notices
11 relating to the breach of the security of a system include certain information about
12 limitations on the fees that may be charged by a consumer reporting agency for
13 placing, temporarily lifting, or removing a security freeze; and generally relating to
14 fees charged by consumer reporting agencies for services relating to a security freeze
15 and notices about the fees.

16 BY repealing and reenacting, without amendments,
17 Article – Commercial Law
18 Section 14–1212.1(a)(1) and (3) and 14–3504(a) and (b)(1) and (2)
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Commercial Law
23 Section 14–1212.1(i) and (j) and 14–3504(g)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2013 Replacement Volume and 2016 Supplement)

2 BY repealing and reenacting, without amendments,
3 Article – State Government
4 Section 10–1305(a) and (b)(1) and (2)
5 Annotated Code of Maryland
6 (2014 Replacement Volume and 2016 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – State Government
9 Section 10–1305(g)
10 Annotated Code of Maryland
11 (2014 Replacement Volume and 2016 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Commercial Law**

15 14–1212.1.

16 (a) (1) In this section the following words have the meanings indicated.

17 (3) “Security freeze” means a restriction placed on a consumer’s consumer
18 report at the request of the consumer that prohibits a consumer reporting agency from
19 releasing the consumer’s consumer report or any information derived from the consumer’s
20 consumer report without the express authorization of the consumer.

21 (i) (1) Except as provided in paragraph (2) of this subsection, a consumer may
22 not be charged for any service relating to a security freeze.

23 (2) A consumer reporting agency may charge a reasonable fee, not
24 exceeding \$5, for each placement, temporary lift, or removal of a security freeze.

25 (3) Notwithstanding paragraph (2) of this subsection, a consumer reporting
26 agency may not charge any fee under this section to a consumer who:

27 (i) Has obtained a report of alleged identity fraud against the
28 consumer under § 8–304 of the Criminal Law Article or an identity theft passport under §
29 8–305 of the Criminal Law Article; and

30 (ii) Provides a copy of the report or passport to the consumer
31 reporting agency.

32 **(4) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, A**
33 **CONSUMER REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION**
34 **TO A CONSUMER FOR A PLACEMENT OR REMOVAL OF A SECURITY FREEZE OR FOR**

1 THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF
2 THE CONSUMER:

3 (I) HAS RECEIVED NOTICE OF A BREACH OF THE SECURITY OF
4 A SYSTEM UNDER § 14-3504 OF THIS TITLE OR § 10-1305 OF THE STATE
5 GOVERNMENT ARTICLE OR FROM OR ON BEHALF OF A FEDERAL GOVERNMENT
6 AGENCY; AND

7 (II) PROVIDES A COPY OF THE NOTICE TO THE CONSUMER
8 REPORTING AGENCY.

9 (j) At any time that a consumer is entitled to receive a summary of rights under
10 § 609 of the federal Fair Credit Reporting Act or § 14-1206 of this subtitle, the following
11 notice shall be included:

12 "NOTICE

13 You have a right, under § 14-1212.1 of the Commercial Law Article of the Annotated
14 Code of Maryland, to place a security freeze on your credit report. The security freeze will
15 prohibit a consumer reporting agency from releasing your credit report or any information
16 derived from your credit report without your express authorization. The purpose of a
17 security freeze is to prevent credit, loans, and services from being approved in your name
18 without your consent.

19 You may elect to have a consumer reporting agency place a security freeze on your
20 credit report by written request sent by certified mail or by electronic mail or the Internet
21 if the consumer reporting agency provides a secure electronic connection. The consumer
22 reporting agency must place a security freeze on your credit report within 3 business days
23 after your request is received. Within 5 business days after a security freeze is placed on
24 your credit report, you will be provided with a unique personal identification number or
25 password to use if you want to remove the security freeze or temporarily lift the security
26 freeze to release your credit report to a specific person or for a specific period of time. You
27 also will receive information on the procedures for removing or temporarily lifting a
28 security freeze.

29 If you want to temporarily lift the security freeze on your credit report, you must
30 contact the consumer reporting agency and provide all of the following:

31 (1) The unique personal identification number or password provided by the
32 consumer reporting agency;

33 (2) The proper identifying information to verify your identity; and

34 (3) The proper information regarding the person who is to receive the credit
35 report or the period of time for which the credit report is to be available to users of the
36 credit report.

1 A consumer reporting agency must comply with a request to temporarily lift a
2 security freeze on a credit report within 3 business days after the request is received, or
3 within 15 minutes for certain requests. A consumer reporting agency must comply with a
4 request to remove a security freeze on a credit report within 3 business days after the
5 request is received.

6 If you are actively seeking credit, you should be aware that the procedures involved
7 in lifting a security freeze may slow your own applications for credit. You should plan ahead
8 and lift a security freeze, either completely if you are seeking credit from a number of
9 sources, or just for a specific creditor if you are applying only to that creditor, a few days
10 before actually applying for new credit.

11 A consumer reporting agency may charge a reasonable fee not exceeding \$5 for each
12 placement, temporary lift, or removal of a security freeze. However, a consumer reporting
13 agency may not charge any fee to a consumer who, at the time of a request to place,
14 temporarily lift, or remove a security freeze, presents to the consumer reporting agency a
15 police report of alleged identity fraud against the consumer or an identity theft passport. **A
16 CONSUMER REPORTING AGENCY ALSO MAY NOT CHARGE ANY FEE TO A CONSUMER
17 FOR PLACING OR REMOVING A SECURITY FREEZE OR FOR THE FIRST TWO
18 TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR YEAR IF, AT THE TIME OF
19 A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A SECURITY FREEZE, THE
20 CONSUMER PRESENTS TO THE CONSUMER REPORTING AGENCY A COPY OF A NOTICE
21 THAT THERE HAS BEEN A BREACH OF THE SECURITY OF A SYSTEM THAT MAY
22 COMPROMISE THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE
23 CONSUMER'S PERSONAL INFORMATION.**

24 A security freeze does not apply if you have an existing account relationship and a
25 copy of your credit report is requested by your existing creditor or its agents or affiliates for
26 certain types of account review, collection, fraud control, or similar activities.”

27 14–3504.

28 (a) In this section:

29 (1) “Breach of the security of a system” means the unauthorized acquisition
30 of computerized data that compromises the security, confidentiality, or integrity of the
31 personal information maintained by a business; and

32 (2) “Breach of the security of a system” does not include the good faith
33 acquisition of personal information by an employee or agent of a business for the purposes
34 of the business, provided that the personal information is not used or subject to further
35 unauthorized disclosure.

36 (b) (1) A business that owns or licenses computerized data that includes
37 personal information of an individual residing in the State, when it discovers or is notified

1 of a breach of the security of a system, shall conduct in good faith a reasonable and prompt
2 investigation to determine the likelihood that personal information of the individual has
3 been or will be misused as a result of the breach.

4 (2) If, after the investigation is concluded, the business determines that
5 misuse of the individual's personal information has occurred or is reasonably likely to occur
6 as a result of a breach of the security of a system, the business shall notify the individual
7 of the breach.

8 (g) The notification required under subsection (b) of this section shall include:

9 (1) To the extent possible, a description of the categories of information
10 that were, or are reasonably believed to have been, acquired by an unauthorized person,
11 including which of the elements of personal information were, or are reasonably believed
12 to have been, acquired;

13 (2) Contact information for the business making the notification, including
14 the business' address, telephone number, and toll-free telephone number if one is
15 maintained;

16 (3) The toll-free telephone numbers and addresses for the major consumer
17 reporting agencies; [and]

18 (4) (i) The toll-free telephone numbers, addresses, and Web site
19 addresses for:

20 1. The Federal Trade Commission; and

21 2. The Office of the Attorney General; and

22 (ii) A statement that an individual can obtain information from
23 these sources about steps the individual can take to avoid identity theft; AND

24 **(5) A NOTICE THAT A CONSUMER REPORTING AGENCY MAY NOT**
25 **CHARGE ANY FEE TO A CONSUMER FOR PLACING OR REMOVING A SECURITY FREEZE**
26 **OR FOR THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR**
27 **YEAR IF, AT THE TIME OF A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A**
28 **SECURITY FREEZE, THE CONSUMER PRESENTS TO THE CONSUMER REPORTING**
29 **AGENCY A COPY OF THIS NOTIFICATION.**

30 **Article – State Government**

31 10-1305.

1 (a) (1) In this section, “breach of the security of a system” means the
2 unauthorized acquisition of computerized data that compromises the security,
3 confidentiality, or integrity of the personal information maintained by a unit.

4 (2) “Breach of the security of a system” does not include the good faith
5 acquisition of personal information by an employee or agent of a unit for the purposes of
6 the unit, provided that the personal information is not used or subject to further
7 unauthorized disclosure.

8 (b) (1) If a unit that collects computerized data that includes personal
9 information of an individual discovers or is notified of a breach of the security of a system,
10 the unit shall conduct in good faith a reasonable and prompt investigation to determine
11 whether the unauthorized acquisition of personal information of the individual has resulted
12 in or is likely to result in the misuse of the information.

13 (2) (i) Except as provided in subparagraph (ii) of this paragraph, if after
14 the investigation is concluded, the unit determines that the misuse of the individual’s
15 personal information has occurred or is likely to occur, the unit or the nonaffiliated third
16 party, if authorized under a written contract or agreement with the unit, shall notify the
17 individual of the breach.

18 (ii) Unless the unit or nonaffiliated third party knows that the
19 encryption key has been broken, a unit or the nonaffiliated third party is not required to
20 notify an individual under subparagraph (i) of this paragraph if:

- 21 1. the personal information of the individual was secured by
22 encryption or redacted; and
- 23 2. the encryption key has not been compromised or disclosed.

24 (g) The notification required under subsection (b) of this section shall include:

25 (1) to the extent possible, a description of the categories of information that
26 were, or are reasonably believed to have been, acquired by an unauthorized person,
27 including which of the elements of personal information were, or are reasonably believed
28 to have been, acquired;

29 (2) contact information for the unit making the notification, including the
30 unit’s address, telephone number, and toll-free telephone number if one is maintained;

31 (3) the toll-free telephone numbers and addresses for the major consumer
32 reporting agencies; [and]

33 (4) (i) the toll-free telephone numbers, addresses, and Web site
34 addresses for:

- 35 1. the Federal Trade Commission; and

1 2. the Office of the Attorney General; and

2 (ii) a statement that an individual can obtain information from these
3 sources about steps the individual can take to avoid identity theft; AND

4 **(5) A NOTICE THAT A CONSUMER REPORTING AGENCY MAY NOT**
5 **CHARGE ANY FEE TO A CONSUMER FOR PLACING OR REMOVING A SECURITY FREEZE**
6 **OR FOR THE FIRST TWO TEMPORARY LIFTS OF A SECURITY FREEZE IN A CALENDAR**
7 **YEAR IF, AT THE TIME OF A REQUEST TO PLACE, TEMPORARILY LIFT, OR REMOVE A**
8 **SECURITY FREEZE, THE CONSUMER PRESENTS TO THE CONSUMER REPORTING**
9 **AGENCY A COPY OF THIS NOTIFICATION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.