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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R.

To amend the Fair Credit Reporting Act to provide individuals the ability to control access to their credit reports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY of New York (for herself and Mr. GILLMOR) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Fair Credit Reporting Act to provide individuals the ability to control access to their credit reports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft Protec-
5 tion Act of 2007”.

1 **SEC. 2. PROTECTION OF DATA THROUGH SECURITY**
2 **FREEZE.**

3 (a) IN GENERAL.—The Fair Credit Reporting Act
4 (15 U.S.C. 1681 et seq.) is amended by inserting after
5 section 605B (relating to block resulting from identity
6 theft) the following new section:

7 **“§ 605C. Protection of data through security freeze**

8 “(a) IN GENERAL.—

9 “(1) EMPLACEMENT.—

10 “(A) CONSUMER REQUEST.—A consumer
11 may place a security freeze on the consumer re-
12 port of the consumer by making a request to a
13 consumer reporting agency in writing, by tele-
14 phone, by fax, or by a secure electronic method.

15 “(B) AVAILABILITY OF METHODS FOR
16 MAKING REQUESTS.—A consumer reporting
17 agency shall maintain, in addition to a mailing
18 address, telephone, fax, and electronic commu-
19 nication access for consumers to make requests
20 for—

21 “(i) security freezes under this para-
22 graph; and

23 “(ii) removal or temporary suspen-
24 sions of existing security freezes under
25 subsection (c).

1 “(C) CONFIRMATION OF ACTION ON RE-
2 QUEST.—With respect to each request under
3 subparagraph (A) for a security freeze, a con-
4 sumer reporting agency shall—

5 “(i) send a written confirmation of the
6 security freeze to the consumer within 3
7 business days of placing the freeze; and

8 “(ii) at the same time shall provide
9 the consumer with a unique personal iden-
10 tification number (hereafter in this section
11 referred to as a ‘PIN’) or password to be
12 used by the consumer when providing au-
13 thorization for the release of the credit re-
14 port or information from it for a specific
15 period of time.

16 “(2) CENTRALIZED SOURCE FOR FREEZE
17 PLACEMENT.—

18 “(A) IN GENERAL.—The Commission shall
19 prescribe regulations applicable to consumer re-
20 porting agencies to require the establishment
21 of—

22 “(i) a centralized source, that meets
23 the requirements of subparagraph (B),
24 through which consumers can make a sin-
25 gle request for—

1 “(I) a security freeze on the con-
2 sumer report of the consumer as pro-
3 vided in paragraph (1)(A) from each
4 consumer reporting agency; or

5 “(II) the suspension or removal
6 of such freeze under subsection (c);
7 and

8 “(ii) a standardized form for a con-
9 sumer to make such a request for a secu-
10 rity freeze on the consumer report of the
11 consumer, or the suspension or removal of
12 such freeze, in writing, by telephone, by
13 fax, and by secure electronic method.

14 “(B) REQUIREMENTS FOR CENTRALIZED
15 SOURCE SYSTEM.—A centralized source estab-
16 lished pursuant to subparagraph (A) meets the
17 requirements of this subparagraph if—

18 “(i) the consumer is not required to
19 request the placement, suspension, or re-
20 moval of the security freeze from such cen-
21 tralized source and shall be able to use any
22 means specified in subsection (a)(1)(A) to
23 request the placement, suspension, or re-
24 moval of the security freeze from each such
25 consumer reporting agency individually;

1 “(ii) the centralized source may be
2 used solely for consumer requests to place,
3 suspend, or remove a security freeze and to
4 provide information about placement, sus-
5 pension, or removal of the freeze; and

6 “(iii) the centralized source, with re-
7 spect to a single request for the placement,
8 suspension, or removal of a security freeze
9 under paragraph (1)(A) or subsection (c)
10 by a consumer, provides for such request
11 to be made in all of the following methods,
12 at the discretion of the consumer:

13 “(I) A toll-free telephone for such
14 purpose.

15 “(II) Use of a secure Internet
16 web site for such purpose.

17 “(III) A process for submitting a
18 written request for such purpose.

19 “(IV) A process for use of toll-
20 free fax number for such purpose.

21 “(C) INFORMATION ABOUT PLACEMENT,
22 SUSPENSION OR REMOVAL.—For purposes of
23 subparagraph (B)(ii), the term ‘information
24 about placement, suspension or removal’—

25 “(i) includes—

1 “(I) general information about
2 the security freeze;

3 “(II) information on how to
4 place, suspend or remove a security
5 freeze;

6 “(III) information on the benefits
7 of placing a security freeze;

8 “(IV) information about Federal
9 and State consumer security freeze
10 rights, including fee waivers;

11 “(V) information about a con-
12 sumer’s right to a free annual credit
13 report from the credit reporting agen-
14 cies provided for by section 612; and

15 “(VI) other information related
16 to the function, placement, and use of
17 the freeze; and

18 “(ii) does not include any information
19 about products or services other than or in
20 addition to the security freeze offered by
21 the credit reporting agency or third parties
22 for a fee, links to web sites of such credit
23 reporting agencies or third parties offering
24 products or services for a fee, or other
25 marketing information.

1 “(3) CONSUMER DISCLOSURE.—If a consumer
2 requests a security freeze, the consumer reporting
3 agency shall disclose to the consumer—

4 “(A) the process of placing and removing
5 the security freeze;

6 “(B) the potential consequences of the se-
7 curity freeze; and

8 “(C) the following statement:

9 “‘DISCLOSURE RELATING TO SECURITY
10 FREEZE.—A security freeze gives you the abil-
11 ity to “freeze” or prevent access to your credit
12 file by anyone trying to open up a new account
13 or to receive new credit in your name. Before
14 you place a security freeze you should have a
15 clear understanding of how a freeze works and
16 the consequences. When a security freeze is in
17 place, an identity thief cannot open a new ac-
18 count in your name because the potential cred-
19 itor or seller of services will not be able to check
20 your credit file. When you are applying for
21 credit, you can temporarily lift the freeze using
22 a personal identification number (PIN) so that
23 legitimate applications for credit or services can
24 be processed. Without lifting the freeze, you will
25 not be able to get new credit. A freeze does not

1 affect your ability to use your existing lines of
2 credit such as your present credit cards, mort-
3 gage, or car loan.’”.

4 “(b) EFFECT OF SECURITY FREEZE.—

5 “(1) RELEASE OF INFORMATION BLOCKED.—If
6 a security freeze is in place on a consumer report of
7 a consumer, a consumer reporting agency may not
8 release the consumer report or information from the
9 consumer report to a third party without prior ex-
10 press authorization from the consumer.

11 “(2) INFORMATION PROVIDED TO THIRD PAR-
12 TIES.—Paragraph (1) shall not be construed as pre-
13 venting a consumer reporting agency from advising
14 a third party that a security freeze is in effect with
15 respect to a consumer report of a consumer.

16 “(3) TREATMENT AS INCOMPLETE APPLICA-
17 TION.—If a third party, in connection with an appli-
18 cation for credit, requests access to a consumer re-
19 port on which a security freeze is in place, the third
20 party may treat the application as incomplete.

21 “(c) REMOVAL; TEMPORARY SUSPENSIONS.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (4) or (5), a security freeze shall remain in
24 place until the consumer requests that the security
25 freeze be removed in any manner in which a security

1 freeze may be requested under subsection (a)(1)(A)
2 or through a centralized source established under
3 subsection (a)(2).

4 “(2) CONDITIONS.—A consumer reporting
5 agency may remove a security freeze placed on the
6 consumer report of a consumer only—

7 “(A) upon the consumer’s request, pursu-
8 ant to paragraph (1) if accompanied by appro-
9 priate identification of the consumer and the
10 appropriate unique PIN or password provided
11 in accordance with subsection (a)(1)(C)(ii); or

12 “(B) if the agency determines that the
13 consumer report of a consumer was frozen due
14 to a material misrepresentation of fact by the
15 consumer.

16 “(3) NOTIFICATION TO CONSUMER.—If a con-
17 sumer reporting agency intends to remove a freeze
18 upon the consumer report of a consumer pursuant
19 to paragraph (2)(B), the consumer reporting agency
20 shall notify the consumer in writing prior to remov-
21 ing the freeze on the consumer report.

22 “(4) TEMPORARY SUSPENSION FOR SPECIFIED
23 TIME PERIOD.—A consumer may have a security
24 freeze on the consumer report of the consumer tem-

1 temporarily suspended for a specified period of time by
2 making a request to a consumer reporting agency—

3 “(A) in any manner in which a security
4 freeze may be requested under subsection
5 (a)(1)(A) or through a centralized source estab-
6 lished under subsection (a)(2), if accompanied
7 by appropriate identification of the consumer
8 and the appropriate unique PIN or password
9 provided in accordance with subsection
10 (a)(1)(C)(ii); and

11 “(B) specifying the beginning and ending
12 dates for the period during which the security
13 freeze is not to apply to the consumer report of
14 the consumer.

15 “(5) CONFIRMATION.—Whenever a consumer
16 reporting agency removes or temporarily suspends a
17 security freeze on the consumer report of a con-
18 sumer at the request of that consumer under this
19 subsection, the consumer reporting agency shall send
20 a written confirmation of such action to the con-
21 sumer within 3 business days after removing or tem-
22 porarily suspending the security freeze on the con-
23 sumer report.

24 “(d) USE OF IDENTIFICATION INFORMATION.—

1 “(1) IN GENERAL.—Any information requested
2 by a consumer reporting agency for the purpose of
3 identifying a consumer in order to place, lift, or re-
4 move a security freeze or to replace a lost PIN or
5 password may not be used by the consumer report-
6 ing agency for any other purpose.

7 “(2) RULE OF CONSTRUCTION.—Paragraph (1)
8 shall not be construed as limiting the use by a con-
9 sumer reporting agency of information described in
10 such paragraph that was acquired by the consumer
11 reporting agency in any other manner or for any
12 other purpose.

13 “(e) RESPONSE TIMES.—

14 “(1) IN GENERAL.—A consumer reporting
15 agency shall—

16 “(A) place a security freeze on the con-
17 sumer report of a consumer in accordance with
18 subsection (a) not later than 1 business day
19 after receiving a request from the consumer
20 under subsection (a)(1); and

21 “(B) remove, or temporarily suspend, a se-
22 curity freeze in accordance with subsection (c)
23 within 1 business day after—

24 “(i) receiving a request by mail or fax
25 for removal or temporary suspension of the

1 freeze from the consumer under subsection
2 (c); or

3 “(ii) receiving such a request from a
4 consumer by telephone, fax, or a secure
5 electronic method in any case in which
6 paragraph (2)(A) does not apply pursuant
7 to paragraph (2)(B).

8 “(2) FAST RESPONSE TO REQUEST BY TELE-
9 PHONE OR A SECURE ELECTRONIC METHOD.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), a consumer reporting agency shall
12 remove, or temporarily suspend, a security
13 freeze in accordance with subsection (c) within
14 15 minutes of receiving a request for removal
15 or temporary suspension of the freeze from the
16 consumer by telephone or a secure electronic
17 method.

18 “(B) EXCEPTION.—Subparagraph (A)
19 shall not apply to a request by consumer if—

20 “(i) the consumer fails to meet the re-
21 quirements of paragraph (2)(A), (4), or (5)
22 of subsection (c); or

23 “(ii) the ability of the consumer re-
24 porting agency to remove the security
25 freeze within 15 minutes is prevented by—

1 “(I) an act of God, including fire,
2 earthquakes, hurricanes, storms, or
3 similar natural disaster or phe-
4 nomena;

5 “(II) unauthorized or illegal acts
6 by a third party, including terrorism,
7 sabotage, riot, vandalism, labor strikes
8 or disputes disrupting operations, or
9 similar occurrence;

10 “(III) operational interruption,
11 including electrical failure, unantici-
12 pated delay in equipment or replace-
13 ment part delivery, computer hard-
14 ware or software failures inhibiting re-
15 sponse time, or similar disruption;

16 “(IV) governmental action, in-
17 cluding emergency orders or regula-
18 tions, judicial or law enforcement ac-
19 tion, or similar directives;

20 “(V) regularly scheduled mainte-
21 nance, during other than normal busi-
22 ness hours, of, or updates to, the con-
23 sumer reporting agency’s systems; or

24 “(VI) commercially reasonable
25 maintenance of, or repair to, the con-

1 consumer reporting agency's systems that
2 is unexpected or unscheduled.

3 “(f) EXCEPTIONS.—This section shall not apply to
4 the use of a consumer credit report by any of the fol-
5 lowing:

6 “(1) A person or entity, or an affiliate or agent
7 of that person or entity, or an assignee of a financial
8 obligation owing by the consumer to that person or
9 entity, or a prospective assignee of a financial obli-
10 gation owing by the consumer to that person or enti-
11 ty in conjunction with the proposed purchase of the
12 financial obligation, with which the consumer has or
13 had prior to assignment an account or contract, in-
14 cluding a demand deposit account, or to whom the
15 consumer issued a negotiable instrument, for the
16 purposes of reviewing the account or collecting the
17 financial obligation owing for the account, contract,
18 or negotiable instrument.

19 “(2) Any Federal, State or local agency, law en-
20 forcement agency, trial court, or private collection
21 agency acting pursuant to a court order, warrant, or
22 subpoena.

23 “(3) A child support agency or its agents or as-
24 signs acting pursuant to subtitle D of title IV of the
25 Social Security Act or similar State law.

1 “(4) The Department of Health and Human
2 Services, a similar State agency, or the agents or as-
3 signs of the Federal or State agency acting to inves-
4 tigate medicare or medicaid fraud.

5 “(5) The Internal Revenue Service or a State
6 or municipal taxing authority, or a State department
7 of motor vehicles, or any of the agents or assigns of
8 these Federal, State, or municipal agencies acting to
9 investigate or collect delinquent taxes or unpaid
10 court orders or to fulfill any of their other statutory
11 responsibilities.

12 “(6) The use of consumer credit information for
13 the purposes of prescreening as provided under this
14 title.

15 “(7) Any person or entity administering a cred-
16 it file monitoring subscription to which the consumer
17 has subscribed.

18 “(8) Any person or entity for the purpose of
19 providing a consumer with a copy of his or her cred-
20 it report or credit score upon the consumer’s re-
21 quest.

22 “(g) FEES.—

23 “(1) IN GENERAL.—

1 “(A) CERTAIN REASONABLE FEES AL-
2 LOWED.—Except as provided in paragraph (2),
3 a consumer reporting agency may charge—

4 “(i) a fee of not to exceed \$10 for
5 placing a security freeze on the consumer
6 report of a consumer; and

7 “(ii) an annual renewal fee of not to
8 exceed \$10 for maintaining such security
9 freeze after the first year.

10 “(B) OTHER FEES PROHIBITED.—No fee
11 may be charged for any service in connection
12 with a security freeze, including for removing or
13 temporarily suspending the security freeze, ex-
14 cept the fees authorized under subparagraph
15 (A).

16 “(2) ID THEFT VICTIMS.—

17 “(A) IN GENERAL.—A consumer reporting
18 agency may not charge a fee for placing or
19 maintaining a security freeze on the consumer
20 report of a consumer if—

21 “(i) the consumer—

22 “(I) is a victim of identity theft;
23 and

24 “(II) has filed a police report, in-
25 vestigative report, or complaint made

1 to a police department with respect to
2 the theft; or

3 “(ii) the consumer is the recipient of
4 a notice that a breach of data security has
5 occurred with respect to sensitive personal
6 information of the consumer.

7 “(B) LIABILITY OF RESPONSIBLE ENTITY
8 FOR COSTS.—Any person or entity who commits
9 identity theft or is responsible for a breach of
10 data security with respect to any consumer re-
11 ferred to in subparagraph (A) shall be liable to
12 any consumer reporting agency for the cost of
13 placing and maintaining a security freeze on
14 the consumer report of the consumer.

15 “(h) NOTICE TO CONSUMERS OF FREEZE OPTION.—

16 “(1) IN GENERAL.—Each consumer reporting
17 agency that makes information publicly available on
18 the World Wide Web shall include, at the first loca-
19 tion accessible by the general consumer public, a link
20 to a location at which the consumer can place the
21 security freeze by a secure electronic connection and
22 a link to a location where the consumer can review
23 instructions to obtain the security freeze by all avail-
24 able methods for obtaining such a freeze.

1 “(2) FORMAT REQUIREMENTS.—The link re-
2 ferred to in paragraph (1) shall be at least as con-
3 spicuous, including in size, font, color and visibility,
4 as any other service which is marketed or offered to
5 consumers at the first location accessible by the gen-
6 eral consumer public.

7 “(i) LIMITATION ON INFORMATION CHANGES IN
8 FROZEN REPORTS.—

9 “(1) IN GENERAL.—If a security freeze is in
10 place on the consumer report of a consumer, a con-
11 sumer reporting agency may not change any of the
12 following official information in that consumer re-
13 port without sending a written confirmation of the
14 change to the consumer within 30 days after the
15 change is made:

16 “(A) Name.

17 “(B) Date of birth.

18 “(C) Social Security number.

19 “(D) Address.

20 “(2) CONFIRMATION.—

21 “(A) IN GENERAL.—Paragraph (1) shall
22 not be construed as requiring written confirma-
23 tion for technical modifications of a consumer’s
24 official information, including name and street

1 abbreviations, complete spellings, or transposi-
2 tion of numbers or letters.

3 “(B) OLD AND NEW ADDRESSES.—In the
4 case of an address change, the written con-
5 firmation shall be sent to both the new address
6 and to the former address.

7 “(j) CERTAIN EXEMPTIONS.—

8 “(1) AGGREGATORS AND OTHER AGENCIES.—

9 “(A) IN GENERAL.—The provisions of sub-
10 sections (a) through (h) shall not apply to a
11 consumer reporting agency that acts only as a
12 reseller of credit information by assembling and
13 merging information contained in the data base
14 of another consumer reporting agency or mul-
15 tiple consumer reporting agencies, and does not
16 maintain a permanent data base of consumer
17 information from which new consumer reports
18 are produced.

19 “(B) FURTHER DISTRIBUTION PROHIB-
20 ITED.—Each consumer reporting agency de-
21 scribed in subparagraph (A) shall be subject to
22 the security freeze placed on the consumer re-
23 port of any consumer and no such agency may
24 distribute any information from the consumer

1 report of such consumer in contravention of the
2 security freeze while such freeze is in effect.

3 “(2) OTHER EXEMPTED ENTITIES.—The fol-
4 lowing entities shall not be required to place a secu-
5 rity freeze in a consumer report under this section:

6 “(A) A check services or fraud prevention
7 services company, which issues reports on inci-
8 dents of fraud or authorizations for the purpose
9 of approving or processing negotiable instru-
10 ments, electronic funds transfers, or similar
11 methods of payments.

12 “(B) A deposit account information service
13 company, which issues reports regarding ac-
14 count closures due to fraud, substantial over-
15 drafts, automated teller machine abuse, or simi-
16 lar negative information regarding a consumer,
17 to inquiring depository institutions or other fi-
18 nancial institutions for use only in reviewing a
19 consumer request for a deposit account at the
20 inquiring depository institution or other finan-
21 cial institution.

22 “(3) EXEMPTED DATABASES.—This section
23 shall not apply a database or file maintained by a
24 consumer reporting agency that is used solely for
25 any of the following purposes:

1 “(A) Criminal record information.

2 “(B) Fraud prevention or detection.

3 “(C) Tenant screening.

4 “(D) Employee screening.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect at the end of the 6-month
7 period beginning on the date of the enactment of this Act.