



Reprinted
February 26, 2007

SENATE BILL No. 403

DIGEST OF SB 403 (Updated February 26, 2007 4:24 pm - DI 110)

Citations Affected: IC 24-5; IC 34-11.

Synopsis: Freezing of credit reports. Provides that a consumer may prevent access to the consumer's credit report by requesting that the consumer reporting agency place a security freeze on the consumer's credit report. Imposes other requirements and restrictions. Provides that: (1) a consumer reporting agency may furnish a consumer's identifying information only to certain persons; (2) a consumer may bring a civil action against a consumer reporting agency for injury caused to the consumer by the consumer reporting agency's violation of the law; and (3) the attorney general may bring an action to recover a civil penalty of \$2,500 for a knowing or intentional violation or series of violations concerning one consumer and not more than a total of \$100,000 for knowing or intentional violations of the security freeze law for related violations concerning more than one consumer. Provides that: (1) a person who fails to comply with the freezing of credit report requirements is liable to a consumer for certain damages; and (2) a person who obtains a consumer report, requests a security freeze, requests to lift a security freeze, or requests a removal of a security freeze under false pretenses or in violation of a law is liable to a consumer reporting agency for certain damages.

Effective: July 1, 2007.

**Dillon, Boots, Hershman,
Lanane, Tallian, Drozda**

January 11, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 22, 2007, amended, reported favorably — Do Pass.
February 26, 2007, read second time, amended, ordered engrossed.

SB 403—LS 7466/DI 110+



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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 403

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-24 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 24. Security Freeze for Credit Reports; Identifying**
5 **Information**

6 **Sec. 1. As used in this chapter, "consumer" means a person**
7 **whose credit information and history are recorded in a consumer**
8 **report.**

9 **Sec. 2. (a) As used in this chapter, "consumer report" has the**
10 **meaning set forth in 15 U.S.C. 1681a.**

11 **(b) The term includes a consumer's credit score.**

12 **Sec. 3. As used in this chapter, "consumer reporting agency"**
13 **means an entity that:**

14 **(1) for a fee; or**

15 **(2) on a cooperative nonprofit basis;**

16 **assembles or evaluates consumer credit information or other**
17 **information regarding a consumer for the purpose of furnishing a**

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consumer report to a third party.

Sec. 4. As used in this chapter, "credit header information" means information collected or recorded by a consumer reporting agency concerning:

- (1) the Social Security number of a consumer; or
- (2) any other identifying information relating to a consumer that the consumer reporting agency obtained using any nonpublic personal information.

The term does not include the name, address, or telephone number of a consumer if the information is listed in a residential telephone directory that is available to the public.

Sec. 5. As used in this chapter, "security freeze" means a designation placed on a consumer's consumer report:

- (1) by a consumer reporting agency; and
- (2) at the request of the consumer;

that prohibits the consumer reporting agency from releasing the consumer report without the authorization of the consumer.

Sec. 6. (a) For purposes of this section, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(b) A security freeze on a consumer's consumer report does not prohibit the consumer reporting agency from providing the consumer report to the following persons or entities without the authorization of the consumer:

- (1) A state or local unit of government.
- (2) A law enforcement agency.
- (3) A person, or the person's subsidiary, affiliate, agent, assignee, or prospective assignee with which the consumer has or, before the assignment, had an account, contract, or debtor-creditor relationship, for reviewing the account or collecting the financial obligation owing for the account, contract, or debt.
- (4) The consumer.
- (5) An insurer or insurance producer licensed under IC 27 and the agents, vendors, or employees of the insurer or insurance producer that are providing services to a consumer.
- (6) Any of the following entities that use specialized credit reporting tools to validate a consumer's identity or to establish a consumer's creditworthiness:
 - (A) A public utility.
 - (B) A municipally owned utility.
 - (C) A rural electric membership corporation organized

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under IC 8-1-13.

(D) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

(E) An energy utility (as defined in IC 8-1-2.5-2) or an affiliate of an energy utility.

(c) A security freeze on a consumer's consumer report does not prohibit the consumer reporting agency from providing the consumer report:

(1) for purposes of prescreening, as provided in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or

(2) from a consumer reporting agency's data base or file that consists entirely of information concerning, and is used solely for, one (1) or more of the following:

- (A) Criminal record history information.
- (B) Personal loss history information.
- (C) Fraud prevention or detection.
- (D) Tenant screening.
- (E) Employment screening.

Sec. 7. (a) A consumer may place a security freeze on the consumer's consumer report by:

(1) making a request through a contact method established by the consumer reporting agency under section 8 of this chapter; and

(2) paying a fee required by the consumer reporting agency under section 16 of this chapter;

to a consumer reporting agency.

(b) Subject to subsection (c), a consumer reporting agency that receives a request under subsection (a) shall place a security freeze on the consumer's consumer report not later than five (5) business days after receipt of the request.

(c) A consumer reporting agency is not required to place a security freeze on a consumer report under this section if the consumer reporting agency determines that the request for a security freeze:

- (1) is incomplete;
- (2) is materially false; or
- (3) does not clearly identify the person making the request as the consumer.

Sec. 8. (a) A consumer reporting agency shall develop a contact method to receive and process a consumer request to place, remove, or temporarily remove a security freeze.

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- (b) A contact method under subsection (a) must include:**
 - (1) a postal address for certified mail;**
 - (2) a process by which a consumer may make a request by telephone; and**
 - (3) an electronic method established by the consumer reporting agency not later than September 1, 2008, including the use of facsimile (fax) transmission, the Internet, or other electronic means.**

Sec. 9. If a security freeze has been placed on a consumer report, the consumer reporting agency may require a person or an entity described in section 6 of this chapter to provide information to the consumer reporting agency confirming the identity of the person or entity before releasing the consumer report to the person or entity.

Sec. 10. A consumer reporting agency that receives a truthful and complete request for a security freeze shall, not later than ten (10) business days after receipt of the request, issue to the consumer requesting the security freeze:

- (1) a unique personal identification number; and**
- (2) written information explaining how to:**
 - (A) remove a security freeze; and**
 - (B) allow access to a consumer report:**
 - (i) for a specified period; and**
 - (ii) by a specified third party.**

Sec. 11. (a) Except as provided in section 6 of this chapter, if a security freeze has been placed on a consumer's consumer report, the consumer reporting agency that placed the security freeze on the consumer report shall not release the consumer report unless the consumer reporting agency receives authorization from the consumer.

(b) For purposes of subsection (a), a consumer gives authorization to release the consumer's consumer report if the consumer provides the consumer's unique personal identification number to the consumer reporting agency:

- (1) in conjunction with a request by the consumer to allow access to the consumer's consumer report:**
 - (A) for a specified period; or**
 - (B) to a specific third party; and**
- (2) in the manner established by the consumer reporting agency under section 8 of this chapter.**

Sec. 12. (a) A third party that requests a consumer's consumer report in connection with an application by the consumer for credit

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shall treat the application for credit as incomplete if:

- (1) a security freeze has been placed on the consumer report;
- (2) the consumer has not allowed access to the consumer's consumer report for a specified period or to a specified third party; and
- (3) the consumer reporting agency refuses to release the consumer report to the third party based on subdivisions (1) and (2).

(b) A consumer reporting agency that refuses under subsection (a)(3) to release a consumer report shall notify the third party that requested the consumer report of the existence of a security freeze as the basis for the refusal to release the consumer report to the third party.

(c) A consumer reporting agency shall not:

- (1) state; or
- (2) otherwise imply;

to a third party that the consumer's security freeze under this chapter reflects a negative credit score, history, report, or rating.

Sec. 13. (a) A security freeze remains in effect until the consumer who requested the security freeze requests, in a manner established by the consumer reporting agency under section 8 of this chapter, that the security freeze be removed.

(b) Subject to subsections (c) and (d), a consumer reporting agency shall remove a security freeze not later than:

- (1) three (3) business days after the consumer reporting agency receives a request under subsection (a) by certified mail; or
- (2) fifteen (15) minutes after the consumer reporting agency receives a request under subsection (a), by:
 - (A) an electronic method; or
 - (B) telephone;
 as established by the consumer reporting agency under section 8 of this chapter.
- (c) A consumer reporting agency is not required to remove a security freeze under this section if the consumer reporting agency determines that the request to remove the security freeze:
 - (1) is incomplete;
 - (2) is materially false; or
 - (3) does not clearly identify the person making the request as the consumer.
- (d) The consumer reporting agency is not required to remove a security freeze within the time provided under subsection (b) if the

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consumer reporting agency's ability to remove the security freeze is prevented by:

- (1) an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena;
- (2) unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, or labor strikes or disputes disrupting operations;
- (3) operational interruption, including electrical failure, unanticipated delay in equipment, or replacement part delivery, or computer hardware or software failures;
- (4) governmental action, including emergency orders or regulations or judicial or law enforcement action;
- (5) regularly scheduled maintenance, during other than normal business hours, of the consumer reporting agency's system; or
- (6) commercially reasonable maintenance of, or repair to, the consumer reporting agency's system that is unexpected or unscheduled.

Sec. 14. (a) Subject to subsection (d), a consumer reporting agency that placed a security freeze on a consumer's consumer report and issued a unique personal identification number to the consumer under this chapter shall issue a replacement unique personal identification number to the consumer if the consumer requests a replacement unique personal identification number.

(b) A request for a replacement unique personal identification number must be made in a manner prescribed by the consumer reporting agency.

(c) Subject to subsection (d), a consumer reporting agency shall issue a replacement unique personal identification number not later than seven (7) business days after the consumer reporting agency receives a request under subsection (b).

(d) A consumer reporting agency is not required to issue a replacement unique personal identification number under this section if the consumer reporting agency determines that the request for the replacement unique personal identification number:

- (1) is incomplete;
- (2) is materially false; or
- (3) does not clearly identify the person making the request as the consumer.

Sec. 15. (a) A consumer reporting agency may remove a security freeze if the consumer reporting agency determines that the

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1 placement of the security freeze was based on a material
2 misrepresentation of fact.

3 (b) A consumer reporting agency must provide written notice to
4 a consumer before removing a security freeze from the consumer's
5 consumer report under this section.

6 Sec. 16. (a) Except as provided in subsection (b), a consumer
7 reporting agency may impose a charge of not more than five
8 dollars (\$5) for:

9 (1) placing or removing a security freeze on a consumer
10 report under this chapter;

11 (2) allowing access to a consumer report under section 11 of
12 this chapter; or

13 (3) reissuing or replacing a unique personal identification
14 number issued under this chapter.

15 (b) A consumer reporting agency may not impose a charge on
16 a consumer who demonstrates that the consumer has been a victim
17 of identity theft by submitting a copy of a complaint filed with a
18 law enforcement agency concerning the identity theft to the
19 consumer reporting agency.

20 Sec. 17. (a) Except as provided in subsection (b), a consumer
21 reporting agency shall not amend the following information in a
22 consumer report if a security freeze is in effect on the consumer
23 report:

24 (1) The name of the consumer.

25 (2) The date of birth of the consumer.

26 (3) The Social Security number of the consumer.

27 (4) The address of the consumer.

28 (b) A consumer reporting agency may amend the information
29 described in subsection (a) despite a security freeze if the consumer
30 reporting agency receives prior written approval from the
31 consumer.

32 Sec. 18. A consumer reporting agency shall provide to a
33 consumer notice with each written disclosure by the consumer
34 reporting agency as required under Section 609 of the federal Fair
35 Credit Reporting Act (15 U.S.C. 1681g) that the consumer may
36 place a security freeze on the consumer's consumer report. The
37 notice under this section must be in the following form:

38 "UNDER IC 24-5-24, YOU MAY OBTAIN A SECURITY
39 FREEZE ON YOUR CREDIT REPORT TO PROTECT
40 YOUR PRIVACY AND ENSURE THAT CREDIT IS NOT
41 GRANTED IN YOUR NAME WITHOUT YOUR
42 KNOWLEDGE. THE SECURITY FREEZE WILL

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**PROHIBIT A CONSUMER REPORTING AGENCY FROM
RELEASING ANY INFORMATION IN YOUR CREDIT
REPORT WITHOUT YOUR EXPRESS AUTHORIZATION
OR APPROVAL. THE SECURITY FREEZE IS DESIGNED
TO PREVENT CREDIT LOANS AND SERVICES FROM
BEING APPROVED IN YOUR NAME WITHOUT YOUR
CONSENT. WHEN YOU PLACE A SECURITY FREEZE
ON YOUR CREDIT REPORT, WITHIN TEN (10)
BUSINESS DAYS YOU WILL BE PROVIDED A
PERSONAL IDENTIFICATION NUMBER TO USE IF YOU
CHOOSE TO REMOVE THE SECURITY FREEZE OR TO
TEMPORARILY AUTHORIZE THE RELEASE OF YOUR
CREDIT REPORT FOR A PERIOD OF TIME OR TO A
SPECIFIC PERSON AFTER THE SECURITY FREEZE IS
IN PLACE. A SECURITY FREEZE DOES NOT APPLY TO
PERSONS OR ENTITIES LISTED IN IC 24-5-24-6. IF YOU
ARE ACTIVELY SEEKING CREDIT, YOU SHOULD
UNDERSTAND THAT THE PROCEDURES INVOLVED IN
LIFTING A SECURITY FREEZE MAY SLOW YOUR OWN
APPLICATIONS FOR CREDIT. YOU HAVE A RIGHT TO
BRING A CIVIL ACTION AGAINST SOMEONE WHO
VIOLATES YOUR RIGHTS UNDER IC 24-5-24."**

**Sec. 19. A consumer reporting agency may furnish a consumer's
credit header information only to a person who has a permissible
purpose to obtain the consumer's consumer report under Section
604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).**

**Sec. 20. (a) A consumer who suffers injury by an act of a
consumer reporting agency that violates this chapter may bring a
civil action against the consumer reporting agency in a circuit or
superior court in the county in which the consumer resides.**

**(b) A civil action brought under this section must be commenced
in accordance with IC 34-11-2-13.**

**(c) Any person who fails to comply with any requirement
imposed under this chapter with respect to any consumer is liable
to that consumer in an amount equal to the sum of:**

- (1) Any actual damages sustained by the consumer as a result
of the failure but not less than five hundred dollars (\$500) and
no more that six thousand dollars (\$6000); and**
- (2) Such amount of punitive damages as the court may allow;
and**
- (3) In the case of any successful action to enforce any liability
under this section, the costs of the action together with**

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reasonable attorney fees as determined by the court.
(d) Any person who obtains a consumer report, requests a security freeze, requests a temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer up to a maximum of six thousand dollars (\$6000).

Sec. 21. (a) The attorney general may bring an action to recover from a person on behalf of the state a civil penalty described under subsection (b).

(b) A person who knowingly or intentionally violates this chapter is subject to a civil penalty of:

- (1) not more than two thousand five hundred dollars (\$2,500) for a violation or series of violations concerning one (1) consumer; and
- (2) not more than a total of one hundred thousand dollars (\$100,000) for related violations concerning more than one (1) consumer.

SECTION 2. IC 34-11-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. An action against a consumer reporting agency by a consumer under IC 24-5-24-20 (governing consumer reports) must be commenced not later than two (2) years after the date of the alleged violation of IC 24-5-24.

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SENATE MOTION

Madam President: I move that Senator Boots be added as second author and Senator Hershman be added as third author of Senate Bill 403.

DILLON

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 403, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 9, after "2." insert "(a)".

Page 1, between lines 10 and 11, begin a new paragraph and insert: "**(b) The term includes a consumer's credit score.**".

Page 2, between lines 29 and 30, begin a new line block indented and insert:

"(6) Any of the following entities that use specialized credit reporting tools to validate a consumer's identity or to establish a consumer's creditworthiness:

(A) A public utility.

(B) A municipally owned utility.

(C) A rural electric membership corporation organized under IC 8-1-13.

(D) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

(E) An energy utility (as defined in IC 8-1-2.5-2) or an affiliate of an energy utility."

Page 3, line 11, delete "may" and insert "**must**".

Page 3, line 14, delete "or" and insert "**and**".

Page 3, line 16, delete "," and insert "**not later than September 1, 2008,**".

Page 5, line 25, after "system;" insert "**or**".

Page 5, line 28, delete "; or" and insert ".".

Page 5, delete lines 29 through 30.

Page 6, line 18, after "16." delete "A" and insert "**(a) Except as provided in subsection (b), a**".

Page 6, line 19, delete "ten dollars (\$10)" and insert "**five dollars**".

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(\$5)".

Page 6, between lines 25 and 26, begin a new paragraph and insert:

"(b) A consumer reporting agency may not impose a charge on a consumer who demonstrates that the consumer has been a victim of identity theft by submitting a copy of the police report concerning the identity theft to the consumer reporting agency."

and when so amended that said bill do pass.

(Reference is to SB 403 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

SENATE MOTION

Madam President: I move that Senators Lanane, Tallian and Drozda be added as coauthors of Senate Bill 403.

DILLON

SENATE MOTION

Madam President: I move that Senate Bill 403 be amended to read as follows:

Page 2, line 18, after "Sec. 6." insert **"(a) For purposes of this section, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.**

(b)".

Page 2, line 24, delete "A creditor of the consumer, including an assignee or a" and insert **"A person, or the person's subsidiary, affiliate, agent, assignee, or prospective assignee with which the consumer has or, before the assignment, had an account, contract, or debtor-creditor relationship, for reviewing the account or collecting the financial obligation owing for the account, contract, or debt."**

Page 2, delete lines 25 through 26.

Page 2, after line 42, begin a new paragraph and insert:

"(c) A security freeze on a consumer's consumer report does not



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prohibit the consumer reporting agency from providing the consumer report:

- (1) for purposes of prescreening, as provided in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or
- (2) from a consumer reporting agency's data base or file that consists entirely of information concerning, and is used solely for, one (1) or more of the following:
 - (A) Criminal record history information.
 - (B) Personal loss history information.
 - (C) Fraud prevention or detection.
 - (D) Tenant screening.
 - (E) Employment screening."

Page 5, line 10, delete ", during normal".

Page 5, line 11, delete "business hours,".

Page 6, line 41, delete "the police report" and insert "a complaint filed with a law enforcement agency".

(Reference is to SB 403 as printed February 23, 2007.)

DILLON

SENATE MOTION

Madam President: I move that Senate Bill 403 be amended to read as follows:

Page 8, delete lines 14 through 15, begin a new paragraph and insert: **(c) Any person who fails to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:**

(1) Any actual damages sustained by the consumer as a result of the failure but not less than five hundred dollars (\$500) and no more that six thousand dollars (\$6000); and

(2) Such amount of punitive damages as the court may allow; and

(3) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney fees as determined by the court.

(d) Any person who obtains a consumer report, requests a security freeze, requests a temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages



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sustained by the consumer up to a maximum of six thousand dollars (\$6000).

(Reference is to SB 403 as printed February 23, 2007.)

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