

HOUSE BILL NO. HB0044

Identity theft protection.

Sponsored by: Representative(s) Pedersen and Senator(s) Johnson

A BILL

for

1 AN ACT relating to consumer protection; providing for
2 notice to consumers affected by breaches of consumer
3 information databases, as specified; authorizing consumers
4 to prohibit release of information maintained by credit
5 rating agencies, as specified; providing definitions;
6 providing exceptions; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 40-12-501 through 40-12-503 are
11 created to read:

12

13

ARTICLE 5

14

CONSUMER DATABASES

15

16 **40-12-501. Definitions.**

1

2 (a) For purposes of this article:

3

4 (i) "Breach of the security of the data system"
5 means unauthorized acquisition of computerized data that
6 materially compromises the security, confidentiality or
7 integrity of personal identifying information maintained by
8 the person or business and causes or is reasonably believed
9 to cause loss or injury to a resident of this state. Good
10 faith acquisition of personal identifying information by an
11 employee or agent of the person or business for the
12 purposes of the person or business is not a breach of the
13 security of the data system, provided that the personal
14 identifying information is not used or subject to further
15 unauthorized disclosure;

16

17 (ii) "Consumer" means any person who is
18 utilizing or seeking credit for personal, family or
19 household purposes;

20

21 (iii) "Credit rating agency" means any person
22 whose business is the assembling and evaluating of
23 information as to the credit standing and credit worthiness

1 of a consumer, for the purposes of furnishing credit
2 reports, for monetary fees and dues to third parties;

3

4 (iv) "Credit report" means any written or oral
5 report, recommendation or representation of a credit rating
6 agency as to the credit worthiness, credit standing or
7 credit capacity of any consumer, and includes any
8 information which is sought or given for the purpose of
9 serving as the basis for determining eligibility for credit
10 to be used primarily for personal, family or household
11 purposes;

12

13 (v) "Creditor" means as defined in W.S.
14 26-21-102(a)(iii);

15

16 (vi) "Personal identifying information" means as
17 defined in W.S. 6-3-901(b);

18

19 (vii) "Security freeze" means a notice placed in
20 a consumer's credit report, at the request of the consumer,
21 that prohibits the credit rating agency from releasing the
22 consumer's credit report or any information from it without
23 the express authorization of the consumer;

24

1 (viii) "Substitute notice" means:

2

3 (A) An electronic mail notice when the
4 person or business has an electronic mail address for the
5 subject persons;

6

7 (B) Conspicuous posting of the notice on
8 the website page of the person or business if the person or
9 business maintains one; or

10

11 (C) Publication in applicable local or
12 statewide media.

13

14 **40-12-502. Computer security breach; notice to**
15 **affected persons.**

16

17 (a) Any person or business that conducts business in
18 this state and that owns or licenses a computerized
19 database that stores personal identifying information shall
20 disclose any breach of the security of the data system
21 following discovery or notification of the breach to any
22 person whose unencrypted personal identifying information
23 was or is reasonably believed to have been acquired by an
24 unauthorized person. The disclosure shall be made without

1 unreasonable delay, consistent with the legitimate needs of
2 law enforcement, as provided in subsection (c) of this
3 section, or consistent with any measures necessary to
4 determine the scope of the breach and restore the
5 reasonable integrity of the data system.

6

7 (b) Any person or business that maintains
8 computerized data that includes personal identifying
9 information that the person or business does not own shall
10 notify the owner or licensee of the information of any
11 breach of the security of the data system immediately
12 following discovery if the personal identifying information
13 was or is reasonably believed to have been acquired by an
14 unauthorized person.

15

16 (c) The notification required by this section may be
17 delayed if a law enforcement agency determines that the
18 notification will impede a criminal investigation and
19 requests a delay in notification. The notification
20 required by this section shall be made after the law
21 enforcement agency determines that it will not compromise
22 the investigation.

23

1 (d) Notice required by this section may be provided
2 by one (1) of the following methods:

3

4 (i) Written notice;

5

6 (ii) Electronic notice, if the notice provided
7 is consistent with the provisions regarding electronic
8 records and signatures pursuant to 15 U.S.C. § 7001;

9

10 (iii) Telephone notice;

11

12 (iv) If the person or business maintains a
13 written policy for the treatment of personal identifying
14 information in the event of a security breach and notice to
15 affected persons is given as provided in the policy and not
16 unreasonably delayed; or

17

18 (v) Substitute notice, if the person or business
19 demonstrates that:

20

21 (A) The cost of providing notice to all
22 affected persons would exceed two hundred fifty thousand
23 dollars (\$250,000.00);

24

1 (B) The number of persons affected by the
2 breach of the security of the data system exceeds five
3 hundred thousand (500,000); or

4
5 (C) The person or business does not have
6 sufficient contact information.

7

8 **40-12-503. Security freeze.**

9

10 (a) Any consumer may submit a written request, by
11 certified mail or another secure method as authorized by a
12 credit rating agency, to a credit rating agency to place a
13 security freeze on the consumer's credit report. The
14 credit rating agency shall place a security freeze on a
15 consumer's credit report not later than five (5) business
16 days after receipt of the request from the consumer. Not
17 later than ten (10) business days after placing a security
18 freeze on a consumer's credit report, a credit rating
19 agency shall send a written confirmation of the security
20 freeze to the consumer that provides the consumer with a
21 unique personal identification number or password to be
22 used by the consumer when providing authorization for the
23 release of the consumer's report to a third party or for a
24 period of time.

1

2 (b) In the event a consumer, while a security freeze
3 as provided in subsection (a) of this section is in effect,
4 wishes to authorize the disclosure of the consumer's credit
5 report to a third party, or for a period of time, the
6 consumer shall contact the credit rating agency and provide
7 proper identification, the unique personal identification
8 number or password described in subsection (a) of this
9 section and proper information regarding the third party
10 who is to receive the credit report or the time period for
11 which the credit report shall be available. Any credit
12 rating agency that receives a request from a consumer
13 pursuant to this section shall lift the security freeze not
14 later than three (3) business days after receipt of the
15 request.

16

17 (c) Except for the temporary lifting of a security
18 freeze as provided in subsection (b) of this section, any
19 security freeze authorized pursuant to the provisions of
20 this section shall remain in effect until the consumer
21 requests the security freeze to be removed. A credit
22 rating agency shall remove a security freeze not later than
23 three (3) business days after receipt of the request
24 provided the consumer provides proper identification to the

1 credit rating agency and the unique personal identification
2 number or password described in subsection (a) of this
3 section at the time of the request for removal of the
4 security freeze.

5

6 (d) Any credit rating agency may develop procedures
7 to receive and process a request from a consumer to
8 temporarily lift or remove a security freeze on a credit
9 report pursuant to subsection (b) of this section. The
10 procedures shall include, but not be limited to, the
11 ability of a consumer to send a temporary lift or removal
12 request by electronic mail, letter or facsimile.

13

14 (e) In the event that a third party requests access
15 to a consumer's credit report in connection with an
16 application for credit or any other use and the consumer
17 has not authorized the disclosure of the consumer's credit
18 report to that third party, the third party may deem the
19 credit application incomplete.

20

21 (f) A credit rating agency may refuse to implement or
22 may remove a security freeze if the agency believes in good
23 faith that the request for a security freeze was made as
24 part of a fraud that the consumer participated in, had

1 knowledge of, or that can be demonstrated by circumstantial
2 evidence, or that the consumer credit report was frozen due
3 to a material misrepresentation of fact by the consumer.
4 In the event a rating agency refuses to implement or
5 removes a security freeze pursuant to this subsection, the
6 credit rating agency shall promptly notify the consumer in
7 writing of the refusal not later than five (5) business
8 days after the refusal or, in the case of a removal of a
9 security freeze, prior to removing the freeze on the
10 consumer's credit report.

11

12 (g) Nothing in this section shall be construed to
13 prohibit disclosure of a consumer's credit report to:

14

15 (i) A person, or the person's subsidiary,
16 affiliate, agent or assignee with which the consumer has
17 or, prior to assignment, had an account, contract or
18 debtor-creditor relationship for the purpose of reviewing
19 the account for account maintenance, monitoring, credit
20 line increases and account upgrades and enhancements or
21 collecting the financial obligation owing for the account,
22 contract or debt;

23

1 (ii) A subsidiary, affiliate, agent, assignee or
2 prospective assignee of a person to whom access has been
3 granted under subsection (b) of this section for the
4 purpose of facilitating the extension of credit or other
5 permissible use;

6

7 (iii) Any person acting pursuant to a court
8 order, warrant or subpoena;

9

10 (iv) Any person for the purpose of using the
11 credit information to prescreen as provided by the federal
12 Fair Credit Reporting Act;

13

14 (v) Any person for the sole purpose of providing
15 a credit file monitoring subscription service to which the
16 consumer has subscribed;

17

18 (vi) A credit rating agency for the sole purpose
19 of providing a consumer with a copy of his credit report
20 upon the consumer's request; or

21

22 (vii) A federal, state or local governmental
23 entity, including a law enforcement agency, or court, or

1 their agents or assignees pursuant to their statutory or
2 regulatory duties.

3

4 (h) The following persons shall not be required to
5 place a security freeze on a consumer's credit report,
6 provided those persons shall be subject to any security
7 freeze placed on a credit report by another credit rating
8 agency:

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10 (i) A check services or fraud prevention
11 services company that reports on incidents of fraud or
12 issues authorizations for the purpose of approving or
13 processing negotiable instruments, electronic fund
14 transfers or similar methods of payment;

15

16 (ii) A deposit account information service
17 company that issues reports regarding account closures due
18 to fraud, substantial overdrafts, automated teller machine
19 abuse, or similar information regarding a consumer to
20 inquiring banks or other financial institutions for use
21 only in reviewing a consumer request for a deposit account
22 at the inquiring bank or financial institution; or

23

1 (iii) A credit rating agency that acts only to
2 resell credit information by assembling and merging
3 information contained in a database of one (1) or more
4 credit reporting agencies and does not maintain a permanent
5 database of credit information from which new credit
6 reports are produced.

7

8 (j) A credit rating agency may charge a fee of not
9 more than ten dollars (\$10.00) to a consumer for each
10 placement, removal or temporary lift of a security freeze
11 for a period of time, and a fee of not more than twelve
12 dollars (\$12.00) for a temporary lift of a freeze for a
13 specific party.

14

15 (k) An insurer, as defined in W.S. 26-1-102(a)(xvi),
16 may deny an application for insurance if an applicant has
17 placed a security freeze on the applicant's credit report
18 and fails to authorize the disclosure of the applicant's
19 credit report to the insurer as provided in subsection (b)
20 of this section.

21

22 **Section 2.** This act is effective July 1, 2006.

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24

(END)