

# Senate Bill 574

Sponsored by Senator PROZANSKI

## 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 **as introduced**.

Permits consumer to request that consumer reporting agency place, temporarily lift or remove security freeze on protected consumer's consumer report if consumer provides sufficient proof of consumer's authority to act on protected consumer's behalf.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to security freezes on protected consumers' consumer reports; creating new provisions;  
3 amending ORS 646A.602, 646A.606, 646A.608 and 646A.612; and declaring an emergency.

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

5 **SECTION 1.** ORS 646A.602 is amended to read:

6 646A.602. As used in ORS 646A.600 to 646A.628:

7 (1)(a) "Breach of security" means **an** unauthorized acquisition of computerized data that  
8 materially compromises the security, confidentiality or integrity of personal information [*maintained*  
9 *by the*] **that a person maintains**.

10 (b) "*Breach of security*" does not include good-faith acquisition of personal information by a per-  
11 son or that person's employee or agent for a legitimate purpose of that person if the personal informa-  
12 tion is not used in violation of applicable law or in a manner that harms or poses an actual threat to  
13 the security, confidentiality or integrity of the personal information.]

14 (2) "Consumer" means an individual [*who is also a*] resident of this state.

15 (3) "Consumer report" means a consumer report as described in section 603(d) of the federal Fair  
16 Credit Reporting Act (15 U.S.C. 1681a(d)), as that Act existed on October 1, 2007, that [*is compiled*  
17 *and maintained by*] a consumer reporting agency **compiles and maintains**.

18 (4) "Consumer reporting agency" means a consumer reporting agency as described in section  
19 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(p)) as that Act existed on October  
20 1, 2007.

21 (5) "Debt" means any obligation or alleged obligation arising out of a consumer transaction, as  
22 defined in ORS 646.639.

23 (6) "Encryption" means the use of an algorithmic process to transform data into a form in which  
24 the data is rendered unreadable or unusable without the use of a confidential process or key.

25 (7) "Extension of credit" means [*the*] **a** right to defer [*payment of*] **paying** debt, or **a right** to  
26 incur debt and defer [*its payment*] **paying the debt, that is** offered or granted primarily for personal,  
27 family or household purposes.

28 (8) "Identity theft" has the meaning set forth in ORS 165.800.

29 (9) "Identity theft declaration" means a completed and signed statement [*documenting*] **that**  
30 **documents** alleged identity theft, using the form available from the Federal Trade Commission, or

**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 another substantially similar form.

2 (10) "Person" means any individual, private or public corporation, partnership, cooperative, as-  
3 sociation, estate, limited liability company, organization or other entity, whether or not organized  
4 to operate at a profit, or a public body as defined in ORS 174.109.

5 (11) "Personal information":

6 (a) Means a consumer's first name or first initial and last name in combination with any one  
7 or more of the following data elements, when the data elements are not rendered unusable through  
8 encryption, redaction or other methods, or when the data elements are encrypted and the encryption  
9 key has also been acquired:

10 (A) Social Security number;

11 (B) Driver license number or state identification card number issued by the Department of  
12 Transportation;

13 (C) Passport number or other United States issued identification number; or

14 (D) Financial account number, credit or debit card number, in combination with any required  
15 security code, access code or password that would permit access to a consumer's financial account.

16 (b) Means any of the data elements or any combination of the data elements described in para-  
17 graph (a) of this subsection when not combined with the consumer's first name or first initial and  
18 last name and when the data elements are not rendered unusable through encryption, redaction or  
19 other methods, if the information obtained would [*be sufficient to*] permit a person to commit identity  
20 theft against the consumer whose information was compromised.

21 (c) Does not include information, other than a Social Security number, in a federal, state or local  
22 government record that is lawfully made available to the public.

23 **(12) "Protected consumer" means an individual who is:**

24 **(a) Not older than 16 years old at the time a representative requests a security freeze**  
25 **on the individual's behalf; or**

26 **(b) Incapacitated or for whom a court or other authority has appointed a guardian or**  
27 **conservator.**

28 [(12)] **(13) "Redacted" means altered or truncated so that no more than the last four digits of**  
29 **a Social Security number, driver license number, state identification card number, account number**  
30 **or credit or debit card number is accessible as part of the data.**

31 **(14) "Representative" means a consumer who provides a consumer reporting agency with**  
32 **sufficient proof of the consumer's authority to act on a protected consumer's behalf.**

33 [(13)] **(15) "Security freeze" means a notice placed in a consumer report, at [the] a consumer's**  
34 **request [of a consumer] and subject to certain exemptions, that prohibits [the] a consumer reporting**  
35 **agency from releasing the consumer report for the extension of credit unless the consumer has**  
36 **temporarily lifted or removed the security freeze.**

37 **SECTION 2.** ORS 646A.606 is amended to read:

38 646A.606. (1) A consumer may elect to place a security freeze on the consumer's **consumer**  
39 **report or, if the consumer is a representative, on a protected consumer's** consumer report by  
40 sending a written request to a consumer reporting agency at an address [*designated by*] the agency  
41 **designates** to receive such requests, or a secure electronic request at a website [*designated by*] the  
42 agency **designates** to receive such requests if [*such method is made available by*] the consumer re-  
43 porting agency, at the agency's discretion, **makes a secure electronic method available.**

44 (2) If the consumer is the victim of identity theft or has reported **a theft of personal infor-**  
45 **mation** to a law enforcement agency [*the theft of personal information*], the consumer may include

1 a copy of the police report, incident report or identity theft declaration.

2 (3)(a) The consumer must provide proper identification and any fee authorized by ORS 646A.610.

3 (b)(A) **In addition to the information and fee described in paragraph (a) of this sub-**  
 4 **section, a representative who seeks to place a security freeze on a protected consumer's**  
 5 **consumer report shall provide sufficient proof of the representative's authority to act on the**  
 6 **protected consumer's behalf.**

7 (B) **For purposes of subparagraph (A) of this paragraph, sufficient proof of authority**  
 8 **consists of:**

9 (i) **A court order that identifies or describes the relationship between the representative**  
 10 **and the protected consumer;**

11 (ii) **A valid and lawfully executed power of attorney that permits the representative to**  
 12 **act on the protected consumer's behalf; or**

13 (iii) **A written affidavit that the representative signs and has notarized in which the**  
 14 **representative expressly describes the relationship between the representative and the pro-**  
 15 **ected consumer and the representative's authority to act on the protected consumer's be-**  
 16 **half.**

17 (4) Except as provided in ORS 646A.614, if a security freeze is in place, information from a  
 18 consumer report may not be released without prior express authorization from the consumer.

19 (5) This section does not prevent a consumer reporting agency from advising a third party that  
 20 a security freeze is in effect with respect to the consumer report.

21 **SECTION 3.** ORS 646A.608 is amended to read:

22 646A.608. (1) A consumer reporting agency shall place a security freeze on a consumer report  
 23 no later than five business days after receiving from the consumer:

24 (a) The request described in ORS 646A.606 (1);

25 (b) Proper identification **and, if the consumer is a representative that seeks to place a se-**  
 26 **curity freeze on a protected consumer's consumer report, sufficient proof of authority, as**  
 27 **described in ORS 646A.606 (3)(b); and**

28 (c) A fee, if applicable.

29 (2) The consumer reporting agency shall send a written confirmation of the security freeze to  
 30 the consumer, to the last known address for the consumer [*as contained*] **shown** in the consumer  
 31 report [*maintained by*] **that** the consumer reporting agency **maintains**, within 10 business days after  
 32 placing the **security** freeze and, with the confirmation, shall provide the consumer with a unique  
 33 personal identification number or password or similar device [*to be used by*] the consumer [*when*  
 34 *providing authorization for release of*] **must use to authorize the consumer reporting agency to**  
 35 **release** the consumer's consumer report for a specific period of time or [*for permanently removing*]  
 36 **to permanently remove** the security freeze. The consumer reporting agency shall [*also*] include  
 37 with [*such*] **the** written confirmation information [*regarding the process of lifting*] **that describes**  
 38 **how to lift** a **security** freeze, and the process of temporarily lifting a **security** freeze for allowing  
 39 access to information from the consumer's credit report for a period of time while the **security**  
 40 freeze is in place.

41 (3) If a consumer wishes to allow the consumer's **or protected consumer's** consumer report to  
 42 be accessed for a specific period of time while a **security** freeze is in effect, the consumer shall  
 43 contact the consumer reporting agency using a point of contact [*designated by*] the consumer re-  
 44 porting agency **designates**, request that the **security** freeze be temporarily lifted and provide the  
 45 following:

1 (a) Proper identification;

2 (b) The unique personal identification number or password or similar device [*provided by*] the  
3 consumer reporting agency [*pursuant to*] **provided under** subsection (2) of this section;

4 (c) [*The information regarding the time period for which the consumer report shall be available*]  
5 **An indication of the period of time during which the consumer report must be available** to  
6 users of the credit report; and

7 (d) A fee, if applicable.

8 (4) A consumer reporting agency that receives a request from the consumer to temporarily lift  
9 a **security** freeze on a credit report pursuant to subsection (3) of this section shall comply with the  
10 request no later than three business days after receiving from the consumer:

11 (a) Proper identification **and, if the consumer is a representative that seeks to lift a secu-**  
12 **urity freeze that is in effect for a protected consumer's consumer report, sufficient proof of**  
13 **authority, as described in ORS 646A.606 (3)(b);**

14 (b) The unique personal identification number or password or similar device [*provided by*] the  
15 consumer reporting agency **provided under** [*pursuant to*] subsection (2) of this section;

16 (c) [*The information regarding the time period for which the consumer report shall be available*]  
17 **An indication of the period of time during which the consumer report must be available;** and

18 (d) A fee, if applicable.

19 (5) A security freeze [*shall*] **must** remain in place until the consumer requests, using a point of  
20 contact designated by the consumer reporting agency, that the security freeze be removed. A con-  
21 sumer reporting agency shall remove a security freeze within three business days of receiving a  
22 request for removal from the consumer, who provides:

23 (a) Proper identification **and, if the consumer is a representative that seeks to remove a**  
24 **security freeze that is in effect for a protected consumer's consumer report, sufficient proof**  
25 **of authority, as described in ORS 646A.606 (3)(b);**

26 (b) The unique personal identification number or password or similar device provided by the  
27 consumer reporting agency pursuant to subsection (2) of this section; and

28 (c) A fee, if applicable.

29 [(6) *No later than December 31, 2008, the Director of the Department of Consumer and Business*  
30 *Services shall report to the chairs of the legislative committees that considered ORS 646A.600 to*  
31 *646A.628 concerning the minimum amount of time necessary, using current technology, to place, tem-*  
32 *porarily lift or remove a freeze on a consumer report, and to verify a consumer's identity. If the chair*  
33 *of any legislative committee is vacant at the time of making the report, the report shall also be made*  
34 *to the President of the Senate and the Speaker of the House of Representatives.*]

35 **SECTION 4.** ORS 646A.612 is amended to read:

36 646A.612. (1) A consumer reporting agency shall temporarily lift or remove a **security** freeze  
37 placed on a [*consumer's credit report only in the following cases:*] **consumer report only if a con-**  
38 **sumer requests that the consumer reporting agency lift or remove the security freeze for**  
39 **the consumer's consumer report or a protected consumer's consumer report in accordance**  
40 **with ORS 646A.608.**

41 (2) **A consumer reporting agency may temporarily lift or remove a security freeze placed**  
42 **on a consumer report if the security freeze was placed because of the consumer's material**  
43 **misrepresentation of fact. If a consumer reporting agency intends to remove a security**  
44 **freeze under this subsection, the consumer reporting agency shall notify the consumer in**  
45 **writing at least five business days before removing the security freeze.**

1        *[(1) Upon the consumer's request, pursuant to ORS 646A.608 (3) or (5).]*

2        *[(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the*  
3 *consumer, the consumer reporting agency may remove the security freeze. If a consumer reporting*  
4 *agency intends to remove a freeze upon a consumer's credit report pursuant to this subsection, the*  
5 *consumer reporting agency shall notify the consumer in writing at least five business days prior to*  
6 *removing the freeze placed on the consumer report.]*

7        **SECTION 5. (1) The amendments to ORS 646A.602, 646A.606, 646A.608 and 646A.612 by**  
8 **sections 1 to 4 of this 2013 Act become operative 91 days after the effective date of this 2013**  
9 **Act.**

10        **(2) The Director of the Department of Consumer and Business Services may take any**  
11 **action before the operative date specified in subsection (1) of this section that is necessary**  
12 **to enable the director to exercise, on and after the operative date specified in subsection (1)**  
13 **of this section, all of the duties, functions and powers conferred on the director by the**  
14 **amendments to ORS 646A.602, 646A.606, 646A.608 and 646A.612 by sections 1 to 4 of this 2013**  
15 **Act.**

16        **SECTION 6. This 2013 Act being necessary for the immediate preservation of the public**  
17 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
18 **on its passage.**