

**PROPOSED AMENDMENTS TO
SENATE BILL 574**

1 On page 1 of the printed bill, delete line 3 and insert “amending ORS
2 646A.602, 646A.606, 646A.608, 646A.610, 646A.612 and 646A.614; and declaring
3 an emergency.”.

4 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

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 com-
8 puterized data that materially compromises the security, confidentiality or
9 integrity of personal information [*maintained by the*] **that a person main-**
10 **tains.**

11 “(b) ‘Breach of security’ does not include [*good-faith*] **an inadvertent**
12 acquisition of personal information by a person or [*that*] **the** person’s em-
13 ployee or agent [*for a legitimate purpose of that person*] if the personal in-
14 formation is not used in violation of applicable law or in a manner that
15 harms or poses an actual threat to the security, confidentiality or integrity
16 of the personal information.

17 “(2) ‘Consumer’ means an individual [*who is also a*] resident of this state.

18 “(3) ‘Consumer report’ means a consumer report as described in section
19 603(d) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)), as that
20 Act existed on October 1, 2007, that [*is compiled and maintained by*] a con-
21 sumer reporting agency **compiles and maintains.**

22 “(4) ‘Consumer reporting agency’ means a consumer reporting agency as

1 described in section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C.
2 1681a(p)) as that Act existed on October 1, 2007.

3 “(5) ‘Debt’ means any obligation or alleged obligation arising out of a
4 consumer transaction, as defined in ORS 646.639.

5 “(6) ‘Encryption’ means the use of an algorithmic process to transform
6 data into a form in which the data is rendered unreadable or unusable
7 without the use of a confidential process or key.

8 “(7) ‘Extension of credit’ means [*the*] **a** right to defer [*payment of*] **paying**
9 debt or **a right** to incur debt and defer [*its payment*] **paying the debt, that**
10 **is** offered or granted primarily for personal, family or household purposes.

11 “(8) ‘Identity theft’ has the meaning set forth in ORS 165.800.

12 “(9) ‘Identity theft declaration’ means a completed and signed statement
13 [*documenting*] **that documents** alleged identity theft, using the form avail-
14 able from the Federal Trade Commission, or another substantially similar
15 form.

16 “(10) ‘Person’ means any individual, private or public corporation, part-
17 nership, cooperative, association, estate, limited liability company, organiza-
18 tion or other entity, whether or not organized to operate at a profit, or a
19 public body as defined in ORS 174.109.

20 “(11) ‘Personal information’:

21 “(a) Means a consumer’s first name or first initial and last name in
22 combination with any one or more of the following data elements, when the
23 data elements are not rendered unusable through encryption, redaction or
24 other methods, or when the data elements are encrypted and the encryption
25 key has also been acquired:

26 “(A) Social Security number;

27 “(B) Driver license number or state identification card number issued by
28 the Department of Transportation;

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

30 or

1 “(D) Financial account number, credit or debit card number, in combina-
2 tion with any required security code, access code or password that would
3 permit access to a consumer’s financial account.

4 “(b) Means any of the data elements or any combination of the data ele-
5 ments described in paragraph (a) of this subsection when not combined with
6 the consumer’s first name or first initial and last name and when the data
7 elements are not rendered unusable through encryption, redaction or other
8 methods, if the information obtained would be sufficient to permit a person
9 to commit identity theft against the consumer whose information was com-
10 promised.

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

14 **“(12) ‘Proper identification’ means written information or doc-
15 umentation that a consumer or representative can present to another
16 person as evidence of the consumer’s or representative’s identity, ex-
17 amples of which include:**

18 **“(a) A valid Social Security number or a copy of a valid Social Se-
19 curity card;**

20 **“(b) A certified or otherwise official copy of a birth certificate that
21 a governmental body issued; and**

22 **“(c) A copy of a driver license or other government-issued identifi-
23 cation.**

24 **“(13) ‘Protected consumer’ means an individual who is:**

25 **“(a) Not older than 16 years old at the time a representative re-
26 quests a security freeze on the individual’s behalf; or**

27 **“(b) Incapacitated or for whom a court or other authority has ap-
28 pointed a guardian or conservator.**

29 **“(14) ‘Protective record’ means information that a consumer re-
30 porting agency compiles to identify a protected consumer for whom**

1 **the consumer reporting agency has not prepared a consumer report.**

2 “[~~(12)~~] (15) ‘Redacted’ means altered or truncated so that no more than
3 the last four digits of a Social Security number, driver license number, state
4 identification card number, account number or credit or debit card number
5 is accessible as part of the data.

6 **“(16) ‘Representative’ means a consumer who provides a consumer
7 reporting agency with sufficient proof of the consumer’s authority to
8 act on a protected consumer’s behalf.**

9 “[~~(13)~~] (17) ‘Security freeze’ means a notice placed in a consumer report[,
10 *at the request of a consumer and subject to certain exemptions, that prohibits*
11 *the consumer reporting agency from releasing the consumer report for the ex-*
12 *tension of credit unless the consumer has temporarily lifted or removed the*
13 *freeze] **at a consumer’s request or a representative’s request or in a**
14 **protective record at a representative’s request that, subject to certain**
15 **exemptions, prohibits a consumer reporting agency from releasing in-**
16 **formation in the consumer report or the protective record for an ex-**
17 **tension of credit, unless the consumer temporarily lifts the security**
18 **freeze on the consumer’s consumer report or a protected consumer or**
19 **representative removes the security freeze on or deletes the protective**
20 **record.***

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

22 “646A.606. (1) A consumer may elect to place a security freeze on the
23 consumer’s **consumer report or, if the consumer is a representative, on**
24 **a protected consumer’s** consumer report **or protective record** by sending
25 a written request to a consumer reporting agency at an address [*designated*
26 *by*] the agency **designates** to receive such requests, or a secure electronic
27 request at a website [*designated by*] the agency **designates** to receive such
28 requests if [*such method is made available by*] the consumer reporting
29 agency, at the agency’s discretion, **makes a secure electronic method**
30 **available.**

1 “(2) If the consumer **or protected consumer** is the victim of identity
2 theft or has reported **a theft of personal information** to a law enforcement
3 agency [*the theft of personal information*], the consumer **or representative**
4 may include a copy of the police report, incident report or identity theft
5 declaration.

6 “(3)(a) The consumer **or representative** must provide proper identifica-
7 tion and any fee authorized by ORS 646A.610.

8 “(b)(A) **In addition to the information and fee described in para-**
9 **graph (a) of this subsection, a representative who seeks to place a se-**
10 **curity freeze on a protected consumer’s consumer report or protective**
11 **record shall provide sufficient proof of the representative’s authority**
12 **to act on the protected consumer’s behalf.**

13 “(B) **For purposes of subparagraph (A) of this paragraph, sufficient**
14 **proof of authority consists of:**

15 “(i) **A court order that identifies or describes the relationship be-**
16 **tween the representative and the protected consumer;**

17 “(ii) **A valid and lawfully executed power of attorney that permits**
18 **the representative to act on the protected consumer’s behalf; or**

19 “(iii) **A written affidavit that the representative signs and has no-**
20 **tarized in which the representative expressly describes the relationship**
21 **between the representative and the protected consumer and the**
22 **representative’s authority to act on the protected consumer’s behalf.**

23 “(4)(a) Except as provided in ORS 646A.614, if a security freeze is in place
24 **for a consumer report**, information from [*a*] **the consumer report** may not
25 be released without prior express authorization from the consumer.

26 “(b) **Information from a protective record may not be released until**
27 **the protected consumer for whom the consumer reporting agency**
28 **created the protective record, or a representative of the protected**
29 **consumer, removes the security freeze.**

30 “(5) This section does not prevent a consumer reporting agency from ad-

1 vising a third party that a security freeze is in effect with respect to the
2 consumer report **or protective record.**

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

4 “646A.608. (1)(a) A consumer reporting agency shall place a security
5 freeze on a consumer report [*no*] **not** later than five business days after re-
6 ceiving from [*the*] **a** consumer:

7 “[*a*] (A) The request described in ORS 646A.606 (1);

8 “[*b*] (B) Proper identification; and

9 “[*c*] (C) A fee, if applicable.

10 **“(b) If a consumer report does not exist for a protected consumer**
11 **on behalf of whom a representative seeks to place a security freeze, a**
12 **consumer reporting agency shall create a protective record after re-**
13 **ceiving from the representative the request described in ORS 646A.606**
14 **(1), proper identification for both the representative and the protected**
15 **consumer and sufficient proof of authority, as described in ORS**
16 **646A.606 (3)(b). After creating a protective record for a protected con-**
17 **sumer under this paragraph, the consumer reporting agency shall**
18 **place the security freeze that the representative requested on the**
19 **protected consumer’s protective record.**

20 **“(c) The protective record that the consumer reporting agency cre-**
21 **ates under paragraph (b) of this subsection does not need to contain**
22 **any information other than the protected consumer’s personal infor-**
23 **mation, if other information for the protected consumer is not avail-**
24 **able. Except as provided in ORS 646A.614, a consumer reporting agency**
25 **may not use or release to another person the information in a pro-**
26 **jective record for the purpose of assessing a protected consumer’s el-**
27 **igibility or capacity for an extension of credit, as a basis for evaluating**
28 **a protected consumer’s character, reputation or personal character-**
29 **istics or for other purposes that are not related to protecting the pro-**
30 **ected consumer from identity theft.**

1 “(2)(a) The consumer reporting agency shall send a written confirmation
2 of [*the*] a security freeze **on a consumer’s consumer report** to the
3 consumer[, *to*] **at** the last known address for the consumer [*as contained*]
4 **shown** in the consumer report [*maintained by*] **that** the consumer reporting
5 agency **maintains**, within 10 business days after placing the **security** freeze
6 and, with the confirmation, shall provide the consumer with a unique per-
7 sonal identification number or password or similar device [*to be used by*] the
8 consumer [*when providing authorization for release of*] **must use to au-**
9 **thorize the consumer reporting agency to release** the consumer’s con-
10 sumer report for a specific period of time or [*for permanently removing*] **to**
11 **permanently remove** the security freeze. The consumer reporting agency
12 shall [*also*] include with [*such*] **the** written confirmation information [*re-*
13 *garding the process of lifting a*] **that describes how to remove a security**
14 freeze[,] and [*the process of temporarily lifting a*] **how to temporarily lift a**
15 **security** freeze [*for allowing*] **on a consumer report, other than a con-**
16 **sumer report for a protected consumer, in order to allow** access to in-
17 formation from the consumer’s [*credit*] **consumer** report for a period of time
18 while the **security** freeze is in place.

19 “(b) **This subsection does not require a consumer reporting agency**
20 **to provide a consumer or representative with a personal identification**
21 **number or password for the consumer or representative to use to au-**
22 **thorize the consumer reporting agency to release information from a**
23 **protective record.**

24 “(3)(a) If a consumer wishes to allow the consumer’s consumer report to
25 be accessed for a specific period of time while a **security** freeze is in effect,
26 the consumer shall contact the consumer reporting agency using a point of
27 contact [*designated by*] the consumer reporting agency **designates**, request
28 that the **security** freeze be temporarily lifted and provide the following:

29 “[(a)] **(A)** Proper identification;

30 “[(b)] **(B)** The unique personal identification number or password or sim-

1 ilar device *[provided by]* the consumer reporting agency *[pursuant to]* **pro-**
2 **vided under** subsection (2) of this section;

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

7 “*[(d)] (D)* A fee, if applicable.

8 “**(b) A protective record is not subject to a temporary lift of a se-**
9 **curity freeze.**

10 “**(c) Except as provided in ORS 646A.612 (2)(a), a consumer report**
11 **for a protected consumer is not subject to a temporary lift of a secu-**
12 **urity freeze.**

13 “(4) A consumer reporting agency that receives a request from the con-
14 sumer to temporarily lift a **security** freeze on a *[credit]* **consumer** report,
15 **other than a consumer report for a protected consumer,** *[pursuant to]*
16 **under** subsection (3) of this section shall comply with the request *[no]* **not**
17 later than three business days after receiving from the consumer:

18 “(a) Proper identification;

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

22 “(c) *[The information regarding the time period for which the consumer*
23 *report shall]* **An indication of the period of time during which the con-**
24 **sumer report must** be available to users of the consumer report; and

25 “(d) A fee, if applicable.

26 “(5)(a) A security freeze *[shall]* **for a consumer report must** remain in
27 place until the consumer requests, using a point of contact *[designated by]*
28 the consumer reporting agency **designates**, that the security freeze be re-
29 moved. A consumer reporting agency shall remove a security freeze within
30 three business days *[of]* **after** receiving a request for removal from the con-

1 consumer, who provides:

2 “[*a*] (A) Proper identification;

3 “[*b*] (B) The unique personal identification number or password or sim-
4 ilar device [*provided by*] the consumer reporting agency [*pursuant to*] **pro-**
5 **vided under** subsection (2) of this section; and

6 “[*c*] (C) A fee, if applicable.

7 **“(b) A security freeze for a protective record must remain in place**
8 **until the protected consumer or a representative requests, using a**
9 **point of contact the consumer reporting agency designates, that the**
10 **security freeze be removed or that the protective record be deleted.**
11 **The consumer reporting agency does not have an affirmative duty to**
12 **notify the protected consumer or the representative that a security**
13 **freeze is in place or to remove the security freeze or delete the pro-**
14 **TECTIVE RECORD ONCE THE PROTECTED CONSUMER IS NO LONGER A PROTECTED**
15 **CONSUMER. A protected consumer or a representative has the affirma-**
16 **tive duty to request that the consumer reporting agency remove the**
17 **security freeze or delete the protective record. A consumer reporting**
18 **agency shall remove a security freeze or delete a protective record**
19 **within 30 business days after receiving a request for removal or de-**
20 **letion from the protected consumer or a representative, who provides:**

21 **“(A) Proper identification;**

22 **“(B) Sufficient proof of authority, as described in ORS 646A.606**
23 **(3)(b), if the representative seeks to remove the security freeze or de-**
24 **lete the protective record;**

25 **“(C) Proof that the representative’s authority to act on the pro-**
26 **TECTED CONSUMER’S BEHALF IS NO LONGER VALID OR APPLICABLE, IF THE PRO-**
27 **TECTED CONSUMER SEEKS TO REMOVE THE SECURITY FREEZE OR DELETE THE**
28 **PROTECTIVE RECORD; and**

29 **“(D) A fee, if applicable.**

30 “[*6*] *No later than December 31, 2008, the Director of the Department of*

1 *Consumer and Business Services shall report to the chairs of the legislative*
2 *committees that considered ORS 646A.600 to 646A.628 concerning the minimum*
3 *amount of time necessary, using current technology, to place, temporarily lift*
4 *or remove a freeze on a consumer report, and to verify a consumer's identity.*
5 *If the chair of any legislative committee is vacant at the time of making the*
6 *report, the report shall also be made to the President of the Senate and the*
7 *Speaker of the House of Representatives.]*

8 **“SECTION 4.** ORS 646A.610 is amended to read:

9 “646A.610. (1) A consumer reporting agency may not charge a fee to a
10 consumer **or a protected consumer** who is the victim of identity theft or
11 **to a consumer** who has reported **or a protected consumer for whom a**
12 **representative has reported** to a law enforcement agency the theft of per-
13 sonal information, provided the consumer **or the representative** has sub-
14 mitted to the consumer reporting agency a copy of a valid police report,
15 incident report or identity theft declaration.

16 “(2)(a) A consumer reporting agency may charge a reasonable fee of [*no*]
17 **not** more than \$10 to a consumer, other than a consumer described in sub-
18 section (1) of this section, for each **placement of a security** freeze, tempo-
19 rary lift of the **security** freeze, removal of the **security** freeze or replacing
20 a lost personal identification number or password previously provided to the
21 consumer[, *regarding access to a consumer credit report*].

22 “(b)(A) **Except as provided in subsection (1) of this section and in**
23 **subparagraph (B) of this paragraph, a consumer reporting agency may**
24 **charge a reasonable fee of not more than \$10 to place or remove a se-**
25 **curity freeze for a protected consumer's consumer report or protective**
26 **record or to create or delete a protective record for a protected con-**
27 **sumer.**

28 “(B) **A consumer reporting agency may not charge a fee to place**
29 **or remove a security freeze on an existing consumer report or pro-**
30 **ductive record for a protected consumer who is under 16 years of age**

1 at the time a representative requests the consumer reporting agency
2 to place or remove the security freeze.

3 **“SECTION 5.** ORS 646A.612 is amended to read:

4 “646A.612. (1)(a) A consumer reporting agency shall temporarily lift or
5 remove a **security** freeze placed on a [*consumer’s credit report only in the*
6 *following cases:*] **consumer report only if a consumer requests that the**
7 **consumer reporting agency lift or remove the security freeze for the**
8 **consumer report in accordance with ORS 646A.608.**

9 **“(b) A consumer reporting agency shall remove a security freeze**
10 **from a protected consumer’s consumer report or protective record or**
11 **delete a protective record only if the protected consumer or a repre-**
12 **sentative requests that the consumer reporting agency remove the**
13 **security freeze from the consumer report or protective record or delete**
14 **the protective record in accordance with ORS 646A.608.**

15 **“(2)(a) A consumer reporting agency may temporarily lift or remove**
16 **a security freeze placed on a consumer report if the security freeze**
17 **was placed because of a consumer’s, a protected consumer’s or a**
18 **representative’s material misrepresentation of fact.**

19 **“(b) A consumer reporting agency may remove a security freeze**
20 **from or delete a protective record if the consumer reporting agency**
21 **placed the security freeze or created the protective record as a result**
22 **of the protected consumer’s or the representative’s material misrep-**
23 **resentation of fact.**

24 **“(c) If a consumer reporting agency intends to remove a security**
25 **freeze or delete a protective record under this subsection, the con-**
26 **sumer reporting agency shall notify the consumer, protected consumer**
27 **or representative, as appropriate, in writing at least five business days**
28 **before removing the security freeze or deleting the protective record.**

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

30 “[*(2) If the consumer’s credit report was frozen due to a material misrep-*”

1 *resentation of fact by the consumer, the consumer reporting agency may remove*
2 *the security freeze. If a consumer reporting agency intends to remove a freeze*
3 *upon a consumer’s credit report pursuant to this subsection, the consumer re-*
4 *porting agency shall notify the consumer in writing at least five business days*
5 *prior to removing the freeze placed on the consumer report.]*

6 **“SECTION 6.** ORS 646A.614 is amended to read:

7 **“646A.614. (1)** The provisions of ORS 646A.606 to 646A.610 do not apply
8 to the use of a consumer report **or a protective record** by or for any of the
9 following:

10 **“[(1)] (a)** A person, or the person’s subsidiary, affiliate, agent or assignee
11 with which the consumer **or protected consumer** has or, prior to assign-
12 ment, had an account, contract or debtor-creditor relationship for the pur-
13 poses of reviewing the account or collecting the financial obligation owing
14 for the account, contract or debtor-creditor relationship. For purposes of this
15 subsection, ‘reviewing the account’ includes activities related to account
16 maintenance, monitoring, credit line increases and account upgrades and
17 enhancements[;].

18 **“[(2)] (b)** Any person acting pursuant to a judgment, court order, warrant
19 or subpoena[;].

20 **“[(3)] (c)** A federal, state or local governmental entity, [*including*] a law
21 enforcement agency or court, or [*their agents or assignees, acting to investi-*
22 *gate*] **an agent or assignee of the federal, state or local governmental**
23 **entity, law enforcement agency or court, for the purpose of investi-**
24 **gating** fraud or [*acting to investigate or collect*] **investigating or collecting**
25 delinquent taxes, [*or*] unpaid judgments or court orders or **acting otherwise**
26 to fulfill [*their*] statutory or regulatory duties, [*provided such*
27 *responsibilities*] **if the activities or statutory or regulatory duties** are
28 consistent with a permissible purpose under section 604 of the federal Fair
29 Credit Reporting Act (15 U.S.C. 1681b) as that Act existed on October 1,
30 2007[;].

1 “[(4)] (d) The use of credit information for the purposes of prescreening
2 [as provided by] **in accordance with** the federal Fair Credit Reporting Act
3 (15 U.S.C. 1681 et seq.) as that Act existed on October 1, 2007[;].

4 “[(5)] (e) Any person for the sole purpose of providing a credit file moni-
5 toring subscription service, or similar service to which the consumer **or**
6 **protected consumer** has subscribed **or to which a representative has**
7 **subscribed on behalf of the protected consumer**[;].

8 “[(6)] (f) A consumer reporting agency for the sole purpose of providing
9 a consumer, **a protected consumer or a representative** with a copy of the
10 consumer’s **or protected consumer’s** consumer report upon the
11 consumer’s, **protected consumer’s or representative’s** request[;].

12 “[(7)] (g) Any person or entity for the [use] **purpose** of setting or ad-
13 justing rates, for **handling** claims [*handling*] or underwriting for insurance
14 purposes, to the extent permitted by law[;].

15 “[(8)] (h) A subsidiary, affiliate, agent, assignee or prospective assignee
16 of a person to whom access has been granted under ORS 646A.608 (3) for
17 purposes of facilitating the extension of credit or other permissible use[;].

18 “[(9)] (i) A child support agency acting pursuant to Title IV-D of the So-
19 cial Security Act (42 U.S.C. 651 et seq.) as that Act existed on October 1,
20 2007[; *and*].

21 “[(10)] (j) A person for the sole purpose of screening an applicant for a
22 residential dwelling unit as described in ORS 90.295 (1).

23 “(2) **The provisions of ORS 646A.606 to 646A.610 do not apply to a**
24 **protective record used:**

25 “(a) **By an entity listed in ORS 646A.618 (2); or**

26 “(b) **For purposes other than an extension of credit, including:**

27 “(A) **Compiling a criminal record;**

28 “(B) **Detecting or preventing fraud;**

29 “(C) **Compiling a personal loss history; or**

30 “(D) **Screening an applicant for employment, tenancy or other**

1 background checking purposes.

2 **“SECTION 7. (1) The amendments to ORS 646A.602, 646A.606,**
3 **646A.608, 646A.610, 646A.612 and 646A.614 by sections 1 to 6 of this 2013**
4 **Act become operative 91 days after the effective date of this 2013 Act.**

5 **“(2) The Director of the Department of Consumer and Business**
6 **Services may take any action before the operative date specified in**
7 **subsection (1) of this section that is necessary to enable the director**
8 **to exercise, on and after the operative date specified in subsection (1)**
9 **of this section, all of the duties, functions and powers conferred on the**
10 **director by the amendments to ORS 646A.602, 646A.606, 646A.608,**
11 **646A.610, 646A.612 and 646A.614 by sections 1 to 6 of this 2013 Act.**

12 **“SECTION 8. This 2013 Act being necessary for the immediate**
13 **preservation of the public peace, health and safety, an emergency is**
14 **declared to exist, and this 2013 Act takes effect on its passage.”.**

15
