

## SENATE BILL NO. 1380

View [Bill Status](#)

View [Bill Text](#)

View [Amendment](#)

View [Engrossed Bill \(Original Bill with Amendment\(s\) Incorporated\)](#)

View [Statement of Purpose / Fiscal Impact](#)

Text to be added within a bill has been marked with Bold and Underline. Text to be removed has been marked with Strikethrough and Italic. How these codes are actually displayed will vary based on the browser software you are using.

**This sentence is marked with bold and underline to show added text.**

~~*This sentence is marked with strikethrough and italic, indicating text to be removed.*~~

## Bill Status

S1380aa.....by COMMERCE AND HUMAN RESOURCES  
CREDIT REPORTS - Adds to and repeals existing law relating to protection of credit reports to provide a short title; to define terms; to provide a security freeze on a consumer's credit report; to provide for removal of a security freeze and for requirements and timing; to provide for changes to information in a credit report subject to a security freeze; to provide for protection of personal information; and to provide enforcement.

02/06 Senate intro - 1st rdg - to printing

02/07 Rpt prt - to Com/HuRes

02/13 Rpt out - rec d/p - to 2nd rdg

02/14 2nd rdg - to 3rd rdg

02/15 To 14th Ord

02/19 Rpt out amen - to engros

02/20 Rpt engros - 1st rdg - to 2nd rdg as amen

02/21 2nd rdg - to 3rd rdg as amen

02/25 3rd rdg as amen - PASSED - 33-0-2

AYES -- Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Little, Lodge, Malepeai(Sagness), McGee, McKague, McKenzie, Pearce, Richardson, Schroeder, Siddoway, Stegner, Stennett, Werk

NAYS -- None

Absent and excused -- Coiner, Gannon

Floor Sponsor - Davis

Title apvd - to House

02/26 House intro - 1st rdg - to Bus

03/06 Rpt out - rec d/p - to 2nd rdg

03/07 2nd rdg - to 3rd rdg

03/12 3rd rdg - PASSED - 68-0-2

AYES -- Anderson, Andrus, Barrett, Bayer, Bedke, Bell, Bilbao, Black, Block, Bock, Boe, Bolz, Bowers, Brackett, Bradford, Chadderdon, Chavez, Chew, Clark, Collins, Crane, Durst, Eskridge, Hagedorn, Hart, Harwood, Henbest, Henderson, Jaquet, Killen, King, Kren, Labrador, Lake, LeFavour, Loertscher, Luker, Marriott, Mathews, Mortimer, Moyle, Nielsen, Nonini, Pasley-Stuart, Patrick, Pence, Raybould, Ringo, Roberts, Rusche, Sayler, Schaefer, Shepherd(02), Shepherd(08),

Shirley, Shively, Smith(30), Smith(24), Snodgrass, Stevenson, Thayn,  
Thomas, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker

NAYS -- None

Absent and excused -- McGeachin, Ruchti

Floor Sponsor - Black

Title apvd - to Senate

03/13 To enrol - Rpt enrol - Pres signed

03/14 Sp signed

03/17 To Governor

03/18 Governor signed

Session Law Chapter 177

Effective: 07/01/08

## Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
Fifty-ninth Legislature Second Regular Session - 2008

IN THE SENATE

SENATE BILL NO. 1380

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

1 AN ACT  
2 RELATING TO PROTECTION OF CREDIT REPORTS; REPEALING SECTION 28-51-101, IDAH  
3 CODE, RELATING TO DEFINITIONS AND SECTION 28-51-102, IDAHO CODE, RELATIN  
4 TO A BLOCK OF INFORMATION APPEARING AS A RESULT OF A VIOLATION OF A CRIM  
5 INAL CODE PROVISION PROHIBITING MISAPPROPRIATION OF PERSONAL INFORMATION  
6 AMENDING TITLE 28, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 52, TITL  
7 28, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FO  
8 A SECURITY FREEZE ON A CONSUMER'S CREDIT REPORT, TO PROVIDE FOR REMOVAL O  
9 A SECURITY FREEZE AND FOR REQUIREMENTS AND TIMING, TO PROVIDE FOR EXCEP  
10 TIONS, TO PROVIDE FOR FEES FOR A SECURITY FREEZE, TO PROVIDE FOR CHANGE  
11 TO INFORMATION IN A CREDIT REPORT SUBJECT TO A SECURITY FREEZE, TO PROVID  
12 FOR PROTECTION OF PERSONAL INFORMATION AND TO PROVIDE ENFORCEMENT.

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Sections 28-51-101 and 28-51-102, Idaho Code, be, and th  
15 same are hereby repealed.

16 SECTION 2. That Title 28, Idaho Code, be, and the same is hereby amende  
17 by the addition thereto of a **NEW CHAPTER**, to be known and designated as Chap  
18 ter 52, Title 28, Idaho Code, and to read as follows:

19 CHAPTER 52  
20 CREDIT REPORT PROTECTION ACT

21 28-52-101. SHORT TITLE. This chapter shall be known and cited as th  
22 "Credit Report Protection Act."

23 28-52-102. DEFINITIONS. In this chapter:

24 (1) "Consumer" means a natural person.

25 (2) "Consumer reporting agency" means a person who, for fees, dues or o  
 26 a cooperative basis, regularly engages in whole or in part in the practice o  
 27 assembling or evaluating information concerning a consumer's credit or othe  
 28 information for the purpose of furnishing a credit report to another person.

29 (3) "Credit report" means a consumer report, as defined in 15 U.S.C. sec  
 30 tion 1681a, that is used or collected, in whole or in part, for the purpose o  
 31 serving as a factor in establishing a consumer's eligibility for credit fo  
 32 personal, family or household purposes.

33 (4) "Personal information" means personally identifiable financial infor  
 34 mation provided by a consumer to another person, resulting from any transac  
 35 tion with the consumer or any service performed for the consumer or otherwis  
 36 obtained by another person. Personal information does not include publicl  
 37 available information, as that term is defined by regulations prescribed unde  
 38 15 U.S.C. section 6804, or any list, description or other grouping of con  
 39 sumers, and publicly available information pertaining to consumers that i  
 40 derived without using any nonpublic personal information. Notwithstanding th

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1 foregoing, "personal information" includes any list, description or othe  
 2 grouping of consumers, and publicly available information pertaining to th  
 3 consumers, that is derived using any nonpublic personal information other tha  
 4 publicly available information.

5 (5) "Proper identification" has the same meaning as in 15 U.S.C. sectio  
 6 1681h(a)(1) and includes:

7 (a) The consumer's full name, including first, middle and last names an  
 8 any suffix;

9 (b) Any name the consumer previously used;

10 (c) The consumer's current and recent full addresses, including stree  
 11 address, any apartment number, city, state and zip code;

12 (d) The consumer's social security number; and

13 (e) The consumer's date of birth.

14 (6) "Security freeze" means a prohibition, consistent with sectio  
 15 28-52-103, Idaho Code, on a consumer reporting agency's furnishing of  
 16 consumer's credit report to a third party intending to use the credit repor  
 17 to determine the consumer's eligibility for credit.

18 28-52-103. SECURITY FREEZE. (1) A consumer may place a security freeze o  
 19 the consumer's credit report by:

20 (a) Making a request to a consumer reporting agency in writing by regula  
 21 or certified mail at an address designated by the consumer reportin  
 22 agency to receive the request;

23 (b) Providing proper identification; and

24 (c) Paying the fee required by the consumer reporting agency in accor  
 25 dance with section 28-52-106, Idaho Code.

26 (2) Upon receiving a request from a consumer under subsection (1) of thi  
 27 section, the consumer reporting agency shall:

28 (a) Place a security freeze on the consumer's credit report within thre  
 29 (3) business days after receiving the consumer's request; and

30 (b) Within five (5) business days after placing the security freeze, sen  
 31 a written confirmation of the security freeze to the consumer and provid  
 32 the consumer with a unique personal identification number or password t  
 33 be used by the consumer when providing authorizations for removal or tem  
 34 porary lifts of the security freeze under section 28-52-104, Idaho Code.

35 (3) If a security freeze is in place, a consumer reporting agency may no  
 36 release a consumer's credit report, or information from the credit report, t  
 37 a third party that intends to use the information to determine a consumer'  
 38 eligibility for credit without prior authorization from the consumer.

39 (4) Notwithstanding subsection (3) of this section, a consumer reportin  
 40 agency may communicate to a third party requesting a consumer's credit repor

41 that a security freeze is in effect on the consumer's credit report. If  
42 third party requesting a consumer's credit report in connection with th  
43 consumer's application for credit is notified of the existence of a securit  
44 freeze under this section, the third party may treat the consumer's applica  
45 tion as incomplete.

46 (5) A consumer reporting agency shall require proper identification o  
47 the consumer requesting to place, remove or temporarily remove a securit  
48 freeze.

49 (6) A consumer reporting agency shall develop a contact method to receiv  
50 and process a consumer's request to permanently remove or temporarily lift  
51 security freeze. The contact method may include: a postal address; an elec  
52 tronic contact method chosen by the consumer reporting agency, which ma  
53 include the use of fax, internet or other electronic means; or the use o  
54 telephone in a manner that is consistent with any federal requirements place

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1 on the consumer reporting agency. By no later than September 1, 2008, a con  
2 sumer reporting agency shall develop a secure electronic means for a consume  
3 to request the temporary lift of a security freeze.

4 (7) A security freeze placed under this section may be removed only i  
5 accordance with section 28-52-104, Idaho Code.

6 28-52-104. REMOVAL OF SECURITY FREEZE -- REQUIREMENTS AND TIMING. (1)  
7 consumer reporting agency may remove a security freeze from a consumer'  
8 credit report only if the consumer reporting agency receives the consumer'  
9 request through a contact method established and required in accordance wit  
10 subsection (6) of section 28-52-103, Idaho Code, and the consumer reportin  
11 agency receives the consumer's proper identification and other informatio  
12 sufficient to identify the consumer, including the consumer's personal identi  
13 fication number or password; or the consumer makes a material misrepresenta  
14 tion of fact in connection with the placement of the security freeze and th  
15 consumer reporting agency notifies the consumer in writing before removing th  
16 security freeze.

17 (2) A consumer reporting agency shall temporarily lift a security freez  
18 upon receipt of the consumer's request through the contact method establishe  
19 by the consumer reporting agency in accordance with subsection (6) of sectio  
20 28-52-103, Idaho Code, along with:

21 (a) The consumer's proper identification and other information sufficien  
22 to identify the consumer;

23 (b) The consumer's personal identification number or password;

24 (c) The proper information regarding the third party who is to receiv  
25 the credit report or the time period for which the credit report is to b  
26 available to users of the credit report; and

27 (d) A fee, if applicable.

28 (3) A consumer reporting agency shall remove or temporarily lift a secu  
29 rity freeze from a consumer's credit report as follows:

30 (a) Except as provided in paragraph (b) of this subsection regarding tem  
31 porary lifts, within three (3) business days after the business day o  
32 which the consumer's written request to remove or temporarily lift th  
33 security freeze is received by the consumer reporting agency using a con  
34 tact method chosen by the consumer reporting agency in accordance wit  
35 subsection (6) of section 28-52-103, Idaho Code; and

36 (b) On and after September 1, 2008, within fifteen (15) minutes after th  
37 consumer's request to temporarily lift the security freeze is received b  
38 the consumer reporting agency through the electronic contact method chose  
39 by the consumer reporting agency in accordance with subsection (6) of sec  
40 tion 28-52-103, Idaho Code, if such request is received between 6:00 a.m.  
41 and 9:30 p.m. mountain time.

42 (4) A consumer reporting agency need not remove or temporarily lift

43 security freeze within the time specified in subsection (3) of this section i  
 44 the consumer fails to meet the requirements of subsection (1) or (2) of thi  
 45 section, as applicable, or the consumer reporting agency's ability to remov  
 46 the security freeze within such time is prevented by:

47 (a) An act of God, including fire, earthquake, hurricane, storm or simi  
 48 lar natural disaster or phenomenon;

49 (b) Unauthorized or illegal acts by a third party, including terrorism  
 50 sabotage, riot, vandalism, labor strikes or disputes disrupting opera  
 51 tions, or similar occurrence;

52 (c) Operation interruption, including electrical failure, unanticipate  
 53 delay in equipment or replacement part delivery, computer hardware o  
 54 software failures inhibiting response time, or similar disruption;

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1 (d) Governmental action, including emergency order or regulation, judi  
 2 cial or law enforcement action or similar directive;

3 (e) Regularly scheduled maintenance, during other than normal busines  
 4 hours, of, or updates to, the consumer reporting agency's systems;

5 (f) Commercially reasonable maintenance of, or repair to, the consume  
 6 reporting agency's systems that is unexpected or unscheduled; or

7 (g) Receipt of a removal request outside of normal business hours.

8 28-52-105. EXCEPTIONS. (1) Notwithstanding subsection (1) of sectio  
 9 28-52-103, Idaho Code, a consumer reporting agency may furnish a consumer'  
 10 credit report to a third party if the purpose of the credit report is to:

11 (a) Use the credit report for purposes permitted under 15 U.S.C. sectio  
 12 1681b(c);

13 (b) Review the consumer's account with the third party, including fo  
 14 account maintenance or monitoring credit line increases or other upgrade  
 15 or enhancements;

16 (c) Collect on a financial obligation owed by the consumer to the thir  
 17 party requesting the credit report; or

18 (d) Review the consumer's account with another person, or collect on  
 19 financial obligation owed by the consumer to another person and the credi  
 20 report request is for purposes permitted under 15 U.S.C. section 1681b(c  
 21 or the third party requesting the credit report is a subsidiary, affili  
 22 ate, agent, assignee or prospective assignee of the person holding th  
 23 consumer's account or to whom the consumer owes a financial obligation.

24 (2) The consumer's request for a security freeze does not prohibit th  
 25 consumer reporting agency from disclosing the consumer's credit report fo  
 26 other than credit related purposes consistent with the definition of credi  
 27 report in section 28-52-102, Idaho Code. The following list identifies th  
 28 types of credit report disclosures by consumer reporting agencies to thir  
 29 parties that are not prohibited by a security freeze:

30 (a) The third party does not use the credit report for the purpose o  
 31 serving as a factor in establishing a consumer's eligibility for credit;

32 (b) The third party is acting under a court order, warrant or subpoen  
 33 requiring release of the credit report;

34 (c) The third party is a child support agency, or its agent or assigne  
 35 acting under part D, title IV, of the social security act or a simila  
 36 state law;

37 (d) The third party is the federal department of health and human ser  
 38 vices or a similar state agency, or its agent or assignee, investigatin  
 39 medicare or medicaid fraud;

40 (e) The purpose of the credit report is to investigate or collect delin  
 41 quent taxes, assessments or unpaid court orders and the third party is th  
 42 federal internal revenue service; a state taxing authority; the divisio  
 43 of motor vehicles of the Idaho transportation department; a county, munic  
 44 ipality or other taxing district; a federal, state or local law enforce

45 ment agency; or the agent or assignee listed in subsection (1) or (2) o  
46 this section;  
47 (f) The third party is using the information solely for criminal recor  
48 information, tenant screening, employment screening, fraud prevention o  
49 detection, or personal loss history information;  
50 (g) The third party is a person or entity regulated under title 41, Idah  
51 Code;  
52 (h) The third party is administering a credit file monitoring service t  
53 which the consumer has subscribed; or  
54 (i) The third party requests the credit report for the sole purpose o

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1 providing the consumer with a copy of the consumer's credit report o  
2 credit score upon the consumer's request.  
3 (3) Section 28-52-103, Idaho Code, does not apply to:  
4 (a) A consumer reporting agency, the sole purpose of which is to resel  
5 credit information by assembling and merging information contained in th  
6 database of another consumer reporting agency and that does not maintain  
7 permanent database of credit information from which a consumer's credi  
8 report is produced;  
9 (b) A check services or fraud prevention services company that issue  
10 reports on incidents of fraud or authorizations for the purpose of approv  
11 ing or processing negotiable instruments, electronic fund transfers o  
12 similar methods of payment; or  
13 (c) A deposit account information service company that issues report  
14 concerning account closures based on fraud, substantial overdrafts, auto  
15 mated teller machine abuse or similar information concerning a consumer t  
16 a requesting financial institution for the purpose of evaluating  
17 consumer's request to create a deposit account.  
18 (4) Nothing in this chapter prohibits a person from obtaining, aggregat  
19 ing or using information lawfully obtained from public records in a manne  
20 that does not otherwise violate the provisions of this chapter.

21 28-52-106. FEES FOR SECURITY FREEZE. (1) Except as provided in subsectio  
22 (2) of this section, a consumer reporting agency may charge an administrativ  
23 fee, not to exceed six dollars (\$6.00), to a consumer for each placement of  
24 security freeze, and six dollars (\$6.00) for each temporary lift of a securit  
25 freeze. A consumer reporting agency may not charge an administrative fee for  
26 removal of a security freeze.

27 (2) A consumer reporting agency may not charge a fee under sectio  
28 28-52-103(1)(c), Idaho Code, to a consumer who has been the victim of identit  
29 theft and who has submitted to the consumer reporting agency a valid polic  
30 report, an investigative report or complaint that the consumer has filed wit  
31 a law enforcement agency.

32 (3) A consumer may be charged a reasonable fee, not to exceed ten dollar  
33 (\$10.00), if the consumer fails to retain the original personal identificatio  
34 number, password or other device provided by the consumer reporting agency an  
35 if the consumer asks the consumer reporting agency to reissue the same or  
36 new personal identification number, password or other device.

37 28-52-107. CHANGES TO INFORMATION IN A CREDIT REPORT SUBJECT TO A SECU  
38 RITY FREEZE. (1) If a credit report is subject to a security freeze, a con  
39 sumer reporting agency shall notify the consumer who is the subject of th  
40 credit report within thirty (30) days if the consumer reporting agenc  
41 changes the consumer's name, date of birth, social security number or address

42 (2) Notwithstanding subsection (1) of this section, a consumer reporting  
43 agency may make technical modifications to information in a credit report tha  
44 is subject to a security freeze without providing notification to the con  
45 sumer. Technical modifications include the addition or subtraction of abbrevi

46 ations to names and addresses and transpositions or corrections of incorrec  
47 numbering or spelling.

48 (3) When providing notice of a change of address under subsection (1) o  
49 this section, the consumer reporting agency shall provide notice to the con  
50 sumer at both the new address and the former address.

51 28-52-108. PROTECTION OF PERSONAL INFORMATION. (1) Except as allowed b  
52 other law, a person may not display a social security number in a manner o

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1 location that is likely to be open to public view.

2 (2) The state of Idaho, a department, agency, board, commission or othe  
3 political subdivision may not employ or contract for the employment of a  
4 inmate in any facility operated by the department of correction or privat  
5 correctional facility contracted with the department of correction or count  
6 jail in any capacity that would allow any inmate access to any other person'  
7 personal information.

8 28-52-109. ENFORCEMENT. (1) Except as otherwise specified in this sec  
9 tion, any credit reporting agency that willfully fails to comply with an  
10 requirement imposed under this chapter with respect to any consumer is liabl  
11 to that consumer in an amount equal to the sum of:

12 (a) Any actual damages sustained by the consumer as a result of the fail  
13 ure or damages of not less than one hundred dollars (\$100) and not mor  
14 than one thousand dollars (\$1,000); or

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

16 (c) In the case of any successful action to enforce any liability unde  
17 this section, the costs of the action together with reasonable attorney'  
18 fees as determined by the court.

19 (2) Any person who obtains a consumer report, requests a security freeze  
20 requests the temporary lifting of a freeze or requests the removal of a secu  
21 rity freeze from a consumer reporting agency under false pretenses or in a  
22 attempt to violate federal or state law shall be liable to the consume  
23 reporting agency for actual damages sustained by the consumer reporting agenc  
24 or one thousand dollars (\$1,000), whichever is greater.

25 (3) Any credit reporting agency who is negligent in failing to compl  
26 with any requirement imposed under this chapter with respect to any consume  
27 is liable to that consumer in an amount equal to the sum of:

28 (a) Any actual damages sustained by the consumer as a result of the fail  
29 ure; and

30 (b) In the case of any successful action to enforce any liability unde  
31 this section, the costs of the action together with reasonable attorney'  
32 fees as determined by the court.

33 (4) Upon a finding by the court that an unsuccessful pleading, motion o  
34 other paper filed in connection with an action under this chapter was filed i  
35 bad faith or for purposes of harassment, the court shall award to the prevail  
36 ing party attorney's fees reasonable in relation to the work expended i  
37 responding to the pleading, motion, or other paper.

38 (5) The attorney general may enforce this chapter's provisions and, not  
39 withstanding any other provision of law, the attorney general has exclusiv  
40 authority to bring an action against a credit reporting agency for violatio  
41 of section 28-52-104(3)(b), Idaho Code, concerning the requirement that  
42 credit reporting agency temporarily lift a freeze within fifteen (15) minutes  
43 In an action by the attorney general, a credit reporting agency that violate  
44 this chapter's provisions is subject to a civil penalty not less than one hun  
45 dred dollars (\$100) or greater than one thousand dollars (\$1,000) for a viola  
46 tion or series of violations concerning a specific consumer and no greate  
47 than one hundred thousand dollars (\$100,000) in the aggregate for relate  
48 violations concerning more than one (1) consumer. In addition to the penaltie

49 provided in this section, the attorney general may seek injunctive relief t  
 50 prevent future violations of this chapter in the district court in Ada count  
 51 or in the district court for the district in which a consumer resides who i  
 52 the subject of a credit report on which a violation occurs.

## Amendment

]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
 Fifty-ninth Legislature Second Regular Session - 2008

Moved by Davis

Seconded by Stegner

IN THE SENATE  
 SENATE AMENDMENT TO S.B. NO. 1380

1 AMENDMENT TO SECTION 2  
 2 On page 5 of the printed bill, in line 51, delete "Except as allowed by  
 3 and delete line 52 and insert: "Except as otherwise specifically provided b  
 4 law, a person shall not intentionally communicate an individual's social secu  
 5 rity number to the general public."; and on page 6, delete line 1.

## Engrossed Bill (Original Bill with Amendment(s) Incorporated)

]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
 Fifty-ninth Legislature Second Regular Session - 2008

IN THE SENATE  
 SENATE BILL NO. 1380, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

1 AN ACT  
 2 RELATING TO PROTECTION OF CREDIT REPORTS; REPEALING SECTION 28-51-101, IDAH  
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17 by the addition thereto of a **NEW CHAPTER**, to be known and designated as Chap  
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19 CHAPTER 52  
20 CREDIT REPORT PROTECTION ACT

21 28-52-101. SHORT TITLE. This chapter shall be known and cited as th  
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24 (1) "Consumer" means a natural person.

25 (2) "Consumer reporting agency" means a person who, for fees, dues or o  
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34 mation provided by a consumer to another person, resulting from any transac  
35 tion with the consumer or any service performed for the consumer or otherwis  
36 obtained by another person. Personal information does not include publicl  
37 available information, as that term is defined by regulations prescribed unde  
38 15 U.S.C. section 6804, or any list, description or other grouping of con  
39 sumers, and publicly available information pertaining to consumers that i  
40 derived without using any nonpublic personal information. Notwithstanding th

2

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9 (b) Any name the consumer previously used;

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42 third party requesting a consumer's credit report in connection with th  
43 consumer's application for credit is notified of the existence of a securit  
44 freeze under this section, the third party may treat the consumer's applica  
45 tion as incomplete.  
46 (5) A consumer reporting agency shall require proper identification o  
47 the consumer requesting to place, remove or temporarily remove a securit  
48 freeze.  
49 (6) A consumer reporting agency shall develop a contact method to receiv  
50 and process a consumer's request to permanently remove or temporarily lift  
51 security freeze. The contact method may include: a postal address; an elec  
52 tronic contact method chosen by the consumer reporting agency, which ma  
53 include the use of fax, internet or other electronic means; or the use o  
54 telephone in a manner that is consistent with any federal requirements place

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1 on the consumer reporting agency. By no later than September 1, 2008, a con  
2 sumer reporting agency shall develop a secure electronic means for a consume  
3 to request the temporary lift of a security freeze.  
4 (7) A security freeze placed under this section may be removed only i  
5 accordance with section 28-52-104, Idaho Code.

6 28-52-104. REMOVAL OF SECURITY FREEZE -- REQUIREMENTS AND TIMING. (1)  
7 consumer reporting agency may remove a security freeze from a consumer'  
8 credit report only if the consumer reporting agency receives the consumer'  
9 request through a contact method established and required in accordance wit  
10 subsection (6) of section 28-52-103, Idaho Code, and the consumer reportin  
11 agency receives the consumer's proper identification and other informatio  
12 sufficient to identify the consumer, including the consumer's personal identi  
13 fication number or password; or the consumer makes a material misrepresenta  
14 tion of fact in connection with the placement of the security freeze and th  
15 consumer reporting agency notifies the consumer in writing before removing th  
16 security freeze.  
17 (2) A consumer reporting agency shall temporarily lift a security freez  
18 upon receipt of the consumer's request through the contact method establishe  
19 by the consumer reporting agency in accordance with subsection (6) of sectio  
20 28-52-103, Idaho Code, along with:  
21 (a) The consumer's proper identification and other information sufficien  
22 to identify the consumer;  
23 (b) The consumer's personal identification number or password;  
24 (c) The proper information regarding the third party who is to receiv

25 the credit report or the time period for which the credit report is to b  
 26 available to users of the credit report; and  
 27 (d) A fee, if applicable.  
 28 (3) A consumer reporting agency shall remove or temporarily lift a secu  
 29 rity freeze from a consumer's credit report as follows:  
 30 (a) Except as provided in paragraph (b) of this subsection regarding tem  
 31 porary lifts, within three (3) business days after the business day o  
 32 which the consumer's written request to remove or temporarily lift th  
 33 security freeze is received by the consumer reporting agency using a con  
 34 tact method chosen by the consumer reporting agency in accordance wit  
 35 subsection (6) of section 28-52-103, Idaho Code; and  
 36 (b) On and after September 1, 2008, within fifteen (15) minutes after th  
 37 consumer's request to temporarily lift the security freeze is received b  
 38 the consumer reporting agency through the electronic contact method chose  
 39 by the consumer reporting agency in accordance with subsection (6) of sec  
 40 tion 28-52-103, Idaho Code, if such request is received between 6:00 a.m  
 41 and 9:30 p.m. mountain time.  
 42 (4) A consumer reporting agency need not remove or temporarily lift  
 43 security freeze within the time specified in subsection (3) of this section i  
 44 the consumer fails to meet the requirements of subsection (1) or (2) of thi  
 45 section, as applicable, or the consumer reporting agency's ability to remov  
 46 the security freeze within such time is prevented by:  
 47 (a) An act of God, including fire, earthquake, hurricane, storm or simi  
 48 lar natural disaster or phenomenon;  
 49 (b) Unauthorized or illegal acts by a third party, including terrorism  
 50 sabotage, riot, vandalism, labor strikes or disputes disrupting opera  
 51 tions, or similar occurrence;  
 52 (c) Operation interruption, including electrical failure, unanticipate  
 53 delay in equipment or replacement part delivery, computer hardware o  
 54 software failures inhibiting response time, or similar disruption;

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1 (d) Governmental action, including emergency order or regulation, judi  
 2 cial or law enforcement action or similar directive;  
 3 (e) Regularly scheduled maintenance, during other than normal busines  
 4 hours, of, or updates to, the consumer reporting agency's systems;  
 5 (f) Commercially reasonable maintenance of, or repair to, the consume  
 6 reporting agency's systems that is unexpected or unscheduled; or  
 7 (g) Receipt of a removal request outside of normal business hours.  
 8 28-52-105. EXCEPTIONS. (1) Notwithstanding subsection (1) of sectio  
 9 28-52-103, Idaho Code, a consumer reporting agency may furnish a consumer'  
 10 credit report to a third party if the purpose of the credit report is to:  
 11 (a) Use the credit report for purposes permitted under 15 U.S.C. sectio  
 12 1681b(c);  
 13 (b) Review the consumer's account with the third party, including fo  
 14 account maintenance or monitoring credit line increases or other upgrade  
 15 or enhancements;  
 16 (c) Collect on a financial obligation owed by the consumer to the thir  
 17 party requesting the credit report; or  
 18 (d) Review the consumer's account with another person, or collect on  
 19 financial obligation owed by the consumer to another person and the credi  
 20 report request is for purposes permitted under 15 U.S.C. section 1681b(c  
 21 or the third party requesting the credit report is a subsidiary, affili  
 22 ate, agent, assignee or prospective assignee of the person holding th  
 23 consumer's account or to whom the consumer owes a financial obligation.  
 24 (2) The consumer's request for a security freeze does not prohibit th  
 25 consumer reporting agency from disclosing the consumer's credit report fo  
 26 other than credit related purposes consistent with the definition of credi

27 report in section 28-52-102, Idaho Code. The following list identifies th  
28 types of credit report disclosures by consumer reporting agencies to thir  
29 parties that are not prohibited by a security freeze:

- 30 (a) The third party does not use the credit report for the purpose o  
31 serving as a factor in establishing a consumer's eligibility for credit;  
32 (b) The third party is acting under a court order, warrant or subpoen  
33 requiring release of the credit report;  
34 (c) The third party is a child support agency, or its agent or assigne  
35 acting under part D, title IV, of the social security act or a simila  
36 state law;  
37 (d) The third party is the federal department of health and human ser  
38 vices or a similar state agency, or its agent or assignee, investigatin  
39 medicare or medicaid fraud;  
40 (e) The purpose of the credit report is to investigate or collect delin  
41 quent taxes, assessments or unpaid court orders and the third party is th  
42 federal internal revenue service; a state taxing authority; the divisio  
43 of motor vehicles of the Idaho transportation department; a county, munic  
44 ipality or other taxing district; a federal, state or local law enforce  
45 ment agency; or the agent or assignee listed in subsection (1) or (2) o  
46 this section;  
47 (f) The third party is using the information solely for criminal recor  
48 information, tenant screening, employment screening, fraud prevention o  
49 detection, or personal loss history information;  
50 (g) The third party is a person or entity regulated under title 41, Idah  
51 Code;  
52 (h) The third party is administering a credit file monitoring service t  
53 which the consumer has subscribed; or  
54 (i) The third party requests the credit report for the sole purpose o

5

1 providing the consumer with a copy of the consumer's credit report o  
2 credit score upon the consumer's request.

- 3 (3) Section 28-52-103, Idaho Code, does not apply to:  
4 (a) A consumer reporting agency, the sole purpose of which is to resel  
5 credit information by assembling and merging information contained in th  
6 database of another consumer reporting agency and that does not maintain  
7 permanent database of credit information from which a consumer's credi  
8 report is produced;  
9 (b) A check services or fraud prevention services company that issue  
10 reports on incidents of fraud or authorizations for the purpose of approv  
11 ing or processing negotiable instruments, electronic fund transfers o  
12 similar methods of payment; or  
13 (c) A deposit account information service company that issues report  
14 concerning account closures based on fraud, substantial overdrafts, auto  
15 mated teller machine abuse or similar information concerning a consumer t  
16 a requesting financial institution for the purpose of evaluating  
17 consumer's request to create a deposit account.  
18 (4) Nothing in this chapter prohibits a person from obtaining, aggregat  
19 ing or using information lawfully obtained from public records in a manne  
20 that does not otherwise violate the provisions of this chapter.

21 28-52-106. FEES FOR SECURITY FREEZE. (1) Except as provided in subsectio  
22 (2) of this section, a consumer reporting agency may charge an administrativ  
23 fee, not to exceed six dollars (\$6.00), to a consumer for each placement of  
24 security freeze, and six dollars (\$6.00) for each temporary lift of a securit  
25 freeze. A consumer reporting agency may not charge an administrative fee for  
26 removal of a security freeze.

27 (2) A consumer reporting agency may not charge a fee under sectio  
28 28-52-103(1)(c), Idaho Code, to a consumer who has been the victim of identit

29 theft and who has submitted to the consumer reporting agency a valid polic  
 30 report, an investigative report or complaint that the consumer has filed wit  
 31 a law enforcement agency.

32 (3) A consumer may be charged a reasonable fee, not to exceed ten dollar  
 33 (\$10.00), if the consumer fails to retain the original personal identificatio  
 34 number, password or other device provided by the consumer reporting agency an  
 35 if the consumer asks the consumer reporting agency to reissue the same or  
 36 new personal identification number, password or other device.

37 28-52-107. CHANGES TO INFORMATION IN A CREDIT REPORT SUBJECT TO A SECU  
 38 RITY FREEZE. (1) If a credit report is subject to a security freeze, a con  
 39 sumer reporting agency shall notify the consumer who is the subject of th  
 40 credit report within thirty (30) days if the consumer reporting agenc  
 41 changes the consumer's name, date of birth, social security number or address

42 (2) Notwithstanding subsection (1) of this section, a consumer reporting  
 43 agency may make technical modifications to information in a credit report tha  
 44 is subject to a security freeze without providing notification to the con  
 45 sumer. Technical modifications include the addition or subtraction of abbrevi  
 46 ations to names and addresses and transpositions or corrections of incorrec  
 47 numbering or spelling.

48 (3) When providing notice of a change of address under subsection (1) o  
 49 this section, the consumer reporting agency shall provide notice to the con  
 50 sumer at both the new address and the former address.

51 28-52-108. PROTECTION OF PERSONAL INFORMATION. (1) Except as otherwis  
 52 specifically provided by law, a person shall not intentionally communicate a

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1 individual's social security number to the general public.

2 (2) The state of Idaho, a department, agency, board, commission or othe  
 3 political subdivision may not employ or contract for the employment of a  
 4 inmate in any facility operated by the department of correction or privat  
 5 correctional facility contracted with the department of correction or count  
 6 jail in any capacity that would allow any inmate access to any other person'  
 7 personal information.

8 28-52-109. ENFORCEMENT. (1) Except as otherwise specified in this sec  
 9 tion, any credit reporting agency that willfully fails to comply with an  
 10 requirement imposed under this chapter with respect to any consumer is liabl  
 11 to that consumer in an amount equal to the sum of:

12 (a) Any actual damages sustained by the consumer as a result of the fail  
 13 ure or damages of not less than one hundred dollars (\$100) and not mor  
 14 than one thousand dollars (\$1,000); or

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

16 (c) In the case of any successful action to enforce any liability unde  
 17 this section, the costs of the action together with reasonable attorney'  
 18 fees as determined by the court.

19 (2) Any person who obtains a consumer report, requests a security freeze  
 20 requests the temporary lifting of a freeze or requests the removal of a secu  
 21 rity freeze from a consumer reporting agency under false pretenses or in a  
 22 attempt to violate federal or state law shall be liable to the consume  
 23 reporting agency for actual damages sustained by the consumer reporting agenc  
 24 or one thousand dollars (\$1,000), whichever is greater.

25 (3) Any credit reporting agency who is negligent in failing to compl  
 26 with any requirement imposed under this chapter with respect to any consume  
 27 is liable to that consumer in an amount equal to the sum of:

28 (a) Any actual damages sustained by the consumer as a result of the fail  
 29 ure; and

30 (b) In the case of any successful action to enforce any liability unde

31 this section, the costs of the action together with reasonable attorney'  
32 fees as determined by the court.

33 (4) Upon a finding by the court that an unsuccessful pleading, motion o  
34 other paper filed in connection with an action under this chapter was filed i  
35 bad faith or for purposes of harassment, the court shall award to the prevail  
36 ing party attorney's fees reasonable in relation to the work expended i  
37 responding to the pleading, motion, or other paper.

38 (5) The attorney general may enforce this chapter's provisions and, not  
39 withstanding any other provision of law, the attorney general has exclusiv  
40 authority to bring an action against a credit reporting agency for violatio  
41 of section 28-52-104(3)(b), Idaho Code, concerning the requirement that  
42 credit reporting agency temporarily lift a freeze within fifteen (15) minutes  
43 In an action by the attorney general, a credit reporting agency that violate  
44 this chapter's provisions is subject to a civil penalty not less than one hun  
45 dred dollars (\$100) or greater than one thousand dollars (\$1,000) for a viola  
46 tion or series of violations concerning a specific consumer and no greate  
47 than one hundred thousand dollars (\$100,000) in the aggregate for relate  
48 violations concerning more than one (1) consumer. In addition to the penaltie  
49 provided in this section, the attorney general may seek injunctive relief t  
50 prevent future violations of this chapter in the district court in Ada count  
51 or in the district court for the district in which a consumer resides who i  
52 the subject of a credit report on which a violation occurs.

## Statement of Purpose / Fiscal Impact

### STATEMENT OF PURPOSE

RS 17641

The purpose of this bill is to allow consumers to "freeze" access to their credit reports, as a means to help prevent fraud and identity theft. A "freeze" means that anyone attempting to obtain a credit report on a consumer will be unable to get one, and will simply be told that the credit report is frozen. Because most creditors and merchants won't extend significant credit without reviewing the consumer's credit report first, it will be more difficult for fraudsters to obtain credit using someone else's stolen identity. If, having frozen his credit report, the consumer himself needs to obtain credit, he can temporarily lift, or permanently remove, the freeze on his own account. The bill specifies how a consumer can place a freeze with a credit reporting agency, how the consumer can temporarily lift the freeze so that the consumer may engage in a credit transaction, and how a consumer can permanently remove a freeze. It also sets out a number of exceptions to the freeze, to allow creditors to use credit reports to monitor, service and collect their existing credit accounts, to allow the credit reporting agency to comply with subpoenas and court orders, to allow screening by potential landlords and employers, and to allow other legitimate non-credit related uses of credit reports. In order to defray the costs associated with placing and lifting a freeze, the bill allows a credit reporting agency to charge a fee of up to \$6 to place a freeze or to temporarily lift a freeze. No fee may be charged for permanently removing a freeze. A consumer who has been a victim of identity theft may not be charged a fee for placing or removing a freeze. Credit reporting agencies who fail to comply with this bill's requirements are subject to suit for damages, punitive damages and injunctive relief by consumers and by the Attorney General.

### FISCAL NOTE

This bill will have no impact on the general fund.

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