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HOUSE BILL NO. 222

Offered January 11, 2006

Prefiled January 3, 2006

A *BILL to amend the Code of Virginia by adding a section numbered 59.1-443.3, relating to freezing access to credit reports; penalty.*

Patron—Jones, D.C.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 59.1-443.3 as follows:**

§ 59.1-443.3. Freezing access to credit reports; penalty.

A. As used in this section:

"Consumer" means any individual who is utilizing or seeking credit for personal, family, or household purposes.

"Consumer reporting agency" has the meaning assigned by § 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f).

"Credit report" means any written or oral report, recommendation, or representation of a consumer reporting agency as to the creditworthiness, credit standing, or credit capacity of any consumer, and includes any information that is sought or given for the purpose of serving as the basis for determining eligibility for credit to be used primarily for personal, family, or household purposes.

"Security freeze" means a notice, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing all or any part of the consumer's credit report or any information derived from it without the express authorization of the consumer.

B. A consumer may elect to place a security freeze on his credit report by requesting a consumer reporting agency, by certified mail or such other secure method as authorized by a consumer reporting agency, to place a security freeze on such consumer's credit report. The consumer reporting agency shall place a security freeze on a consumer's credit report not later than five business days after receipt of such request.

C. The consumer reporting agency shall send a written confirmation of such security freeze to such consumer within five business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of such consumer's credit report to a specific party or for a period of time.

D. If the consumer wishes to authorize the disclosure of his credit report to a third party, or for a period of time, while such security freeze is in effect, the consumer shall contact the consumer reporting agency and provide:

- 1. Proper identification;*
- 2. The unique personal identification number or password described in subsection C; and*
- 3. Proper information regarding the third party who is to receive the credit report or the time period for which the credit report shall be available.*

E. Any consumer reporting agency that receives a request from a consumer pursuant to this section shall lift such security freeze not later than three business days after receipt of such request.

F. A consumer reporting agency may develop procedures involving the use of telephone, fax, Internet, e-mail, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to this subsection in an expedited manner.

G. A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer's credit report only in the following cases:

- 1. Upon consumer request, pursuant to subsection D or J; and*
- 2. If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.*

H. If a third party requests access to a credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

I. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the

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59 consumer's credit report for a specific party or period of time while the freeze is in place.

60 J. A security freeze shall remain in place until the consumer requests that the security freeze be
61 removed. A consumer reporting agency shall remove a security freeze within three business days of
62 receiving a request for removal from the consumer, who provides both proper identification and the
63 unique personal identification number or password by the consumer reporting agency.

64 K. A consumer reporting agency shall require proper identification of the person making a request to
65 place or remove a security freeze.

66 L. The provisions of this section shall not apply to the use of a credit report by any of the following:

67 1. A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or,
68 prior to assignment, had an account, contract, or debtor-creditor relationship for the purpose of (i)
69 reviewing the account, including activities related to account maintenance, monitoring, credit line
70 increases, and account upgrades and enhancements; (ii) conducting activities related to account
71 maintenance, monitoring, credit line increases, and account upgrades and enhancements; or (iii)
72 collecting the financial obligation owing for the account, contract, or debt;

73 2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has
74 been granted for the purpose of facilitating the extension of credit or other permissible use;

75 3. A person acting pursuant to a court order, warrant, or subpoena;

76 4. Any person for the purpose of using such credit information to prescreen as provided by the
77 federal Fair Credit Reporting Act;

78 5. Any person for the sole purpose of providing a credit file monitoring subscription service to which
79 the consumer has subscribed;

80 6. A consumer reporting agency for the sole purpose of providing a consumer with a copy of his
81 credit report upon the consumer's request; or

82 7. A federal, state, or local governmental entity, including a law-enforcement agency, or court, or
83 their agents or assignees pursuant to their statutory or regulatory duties.

84 M. A consumer reporting agency may charge a consumer a fee of no more than \$20 for each freeze,
85 removal of the freeze, or temporary lift of the freeze.

86 N. The following persons shall not be required to place a security freeze on a consumer's credit
87 report, provided such persons shall be subject to any security freeze placed on a credit report by
88 another consumer reporting agency:

89 1. A check services or fraud prevention services company that reports on incidents of fraud or issues
90 authorizations for the purpose of approving or processing negotiable instruments, electronic fund
91 transfers, or similar methods of payment;

92 2. A deposit account information service company that issues reports regarding account closures due
93 to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding a
94 consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request
95 for a deposit account at the inquiring bank or financial institution; or

96 3. A consumer reporting agency that (i) acts only to resell credit information by assembling and
97 merging information contained in a database of one or more credit reporting agencies and (ii) does not
98 maintain a permanent database of credit information from which new credit reports are produced.

99 O. A consumer reporting agency shall not suggest or otherwise state or imply to a third party that
100 the consumer's security freeze reflects a negative credit score, history, report, or rating.

101 P. Any person who suffers loss by reason of a violation of any provision of this section may recover
102 in a civil action against the person who violated the provision, in addition to reasonable costs and
103 attorney fees, the greater of: (i) \$1,000, or (ii) the amount of actual damages, if any, sustained.

104 Q. Any consumer reporting agency willfully violating any provision of this section is guilty of a
105 Class 1 misdemeanor.