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## SENATE BILL NO. 218

Offered January 11, 2006

Prefiled January 10, 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; civil penalty.*

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Patron—Quayle

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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; civil penalty.*

*A. As used in this section:*

*"Consumer" means any individual who is utilizing or seeking credit for personal, family, or household purposes, who is either (i) under the age of 18 years or (ii) over the age of 65 years and living in a licensed nursing facility, nursing home, boarding home, assisted living facility, or supervised living facility.*

*"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.*

INTRODUCED

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59 I. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process  
60 of placing and temporarily lifting a freeze, and the process for allowing access to information from the  
61 consumer's credit report for a specific party or period of time while the freeze is in place.

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

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

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

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

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

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

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

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

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

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

86 M. This section does not prevent a consumer reporting agency from charging a fee of no more than  
87 \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze.

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

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

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

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

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

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