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**SENATE BILL NO. 946**

Offered January 10, 2007

Prefiled January 9, 2007

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

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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.*

*A. As used in this section:*

*"Consumer" means (i) an individual under the age of 18 years, (ii) the parent or guardian of an individual under the age of 18 years, who is acting on behalf of the individual under the age of 18 years, (iii) an individual living in a licensed nursing facility, nursing home, boarding home, assisted living facility, or supervised living facility; or (iv) a veteran.*

*"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 an individual described in clause (i) or (iii) of the definition of "consumer," and includes any information that is sought or given for the purpose of serving as the basis for determining the individual's eligibility for credit to be used primarily for personal, family, or household purposes.*

*"Security freeze" means a prohibition on the release by a consumer reporting agency of all or any part of the consumer's credit report or any information derived from it without the express authorization of the consumer; however, with respect to a consumer who is the parent or guardian of an individual under the age of 18 years, a security freeze prohibits the consumer reporting agency from releasing all or any part of the credit report of the individual under the age of 18 years or any information derived from it without the express authorization of the parent or guardian.*

*"Veteran" means a veteran, as defined in subsection D of § 2.2-2903, a member of the armed forces of the United States, or a member of the Virginia National Guard.*

*B. A consumer may elect to place a security freeze 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, or in the case of a consumer who is the parent or guardian of an individual under the age of 18 years, a security freeze on the credit report of the individual under the age of 18 years. The consumer reporting agency shall place the requested security freeze on the 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 for a disclosure of his credit report to a third party, or for a period of time, while such security freeze is in effect, 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*

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SB946

59 2. If the consumer's credit report was frozen due to a material misrepresentation of fact by the  
60 consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's credit report  
61 pursuant to this subdivision, the consumer reporting agency shall notify the consumer in writing prior to  
62 removing the freeze on the consumer's credit report.

63 H. If a third party requests access to a credit report on which a security freeze is in effect, and this  
64 request is in connection with an application for credit or any other use, and the consumer does not  
65 allow his credit report to be accessed for that specific party or period of time, then (i) the third party  
66 may treat the application as incomplete and (ii) the consumer reporting agency shall disclose to the  
67 consumer that the third party requested access to the consumer's credit report and that such access was  
68 denied as a result of the security freeze. The consumer reporting agency shall maintain records  
69 regarding the frequency with which it denies third parties' requests for access to consumers' credit  
70 report as a result of a security freeze.

71 I. If a consumer requests a security freeze pursuant to subsection B, the consumer reporting agency  
72 shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing  
73 access to information from the consumer's credit report for a specific party or period of time while the  
74 freeze is in place.

75 J. A security freeze shall remain in place until the consumer requests that the security freeze be  
76 removed. A consumer reporting agency shall remove a security freeze within three business days of  
77 receiving a request for removal from the consumer who provides both proper identification and the  
78 unique personal identification number or password that was provided to the consumer by the consumer  
79 reporting agency as described in subsection C.

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

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

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

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

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

92 4. Any person for the purpose of using such credit information to prescreen as provided by the  
93 federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.;

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

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

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

100 M. This section does not prevent a consumer reporting agency from charging a fee of no more than  
101 \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze.

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

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

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

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

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

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