

BILL ANALYSIS

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S.B. 473
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DIGEST AND PURPOSE

Currently, consumer reporting agencies allow individuals who are or suspect that they are victims of identity theft to place security alert on their credit reports. However, security alerts are only advisory in nature and are not always followed by merchants and credit grantors. Moreover, a victim of identity theft is often embroiled in long process of clearing credit history, financial affairs, or even criminal records. As proposed, S.B. 473 allows a victim of identity theft to place a freeze, for a modest fee, on his or her credit report and provides for confidentiality of social security numbers. This bill seeks to prevent identity theft, which is one of the fastest growing crimes in the United States as well as in Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 20.01, Business & Commerce Code, by adding Subdivisions (7) and (8), to define “security alert” and “security freeze.”

SECTION 2. Amends Section 20.03, Business & Commerce Code, by adding Subsection (d), to requires any written disclosure by the consumer reporting agency (agency) to include a clear and simple statement that explains to the consumer the consumer’s right under this subchapter and includes certain information.

SECTION 3. Amends Chapter 20, Business & Commerce Code, by adding Sections 20.031-20.038, as follows:

Sec. 20.031. REQUESTING SECURITY ALERT. Requires an agency, by the fifth business day after receiving a request in writing or by telephone and with proper identification by a consumer to place a security alert on the consumer’s file. Prohibits the security alert from exceeding 90 days after the date the agency enacted the alert on the files. Provides that there is no limit on the number of security alerts a consumer may request. Requires the agency, on request in writing or by telephone and with proper identification provided by the consumer, to provide a copy of their consumer’s file, at the end of a 90-day security alert.

Sec. 20.032. NOTIFICATION OF SECURITY ALERT. Requires an agency to notify a person who requests a consumer report if a security alert is in effect for the consumer file involved in that report.

Sec. 20.033. TOLL-FREE SECURITY ALERT REQUEST NUMBER. Requires an agency to maintain a toll-free telephone number that is answered at all times to accept security alert requests from consumers.

Sec. 20.034. REQUESTING SECURITY FREEZE. (a) Requires an agency, by the fifth business day after receiving a written request sent by certified mail that includes proper identification provided by a consumer, to place a security freeze on the consumer's file.

(b) Requires an agency, upon request for a security freeze provided by a consumer under Subsection (a), to disclose to the consumer the process of placing, removing, and temporarily lifting a security freeze and the process for allowing access to information from the consumer's file for a specific requester or period while the security freeze is in effect.

(c) Requires an agency, by the 10th business day after receiving the request for a security freeze, to send certain information to the consumer.

Sec. 20.035. NOTIFICATION OF CHANGE. Requires an agency, if a security alert is enacted, to notify the consumer in writing regarding a change of name, date of birth, social security number, or address by the 30th calendar day after the date the change occurred. Requires the agency to send notification of a change of address to the new address and former address. Provides that this section does not require notice of an immaterial change, including a street abbreviation change or correction of a transposition of letters or misspelling of a word.

Sec. 20.036. NOTIFICATION OF SECURITY FREEZE. Requires an agency to notify a person who requests a consumer report if a security freeze is in effect for the consumer file involved in that report.

Sec. 20.037. REMOVAL OR TEMPORARY LIFTING OF SECURITY FREEZE. (a) Requires an agency to remove a security freeze by the third business day after receiving a request in writing or by telephone and with proper identification provided by a consumer, including the consumer personal identification number or password provided under Section 20.034.

(b) Requires an agency, under certain circumstances, to temporarily lift the security freeze, by the third business day after receiving a request in writing or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password provided under Section 20.034.

(c) Authorizes an agency to develop procedures involving the use of a telephone, a facsimile machine, the Internet, or another electronic medium to receive and process a request from a consumer under this section.

(d) Requires an agency to remove a security freeze placed on the consumer file if the security was placed due to a material misrepresentation of fact by the consumer. Requires the agency to notify the consumer in writing before removing the security freeze under this subsection.

Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. Provides that, under certain circumstances, a security freeze does not apply to a consumer report.

SECTION 4. Amends Section 20.04, Business & Commerce Code, to authorize an agency to impose a reasonable charge on a consumer for placing a security alert on a consumer file or for placing a security freeze on a consumer file, except as provided by Subsection (b). Authorizes an agency, on January 1 of each year, to increase the charge for placing a security alert or for placing a security freeze.

(b) Prohibits an agency from charging a fee for a request for a copy of consumer's file made on the expiration of the 90-day security alert; a toll-free telephone number that consumers may call to obtain additional assistance concerning their report or to request a

security alert; or a request for a security freeze made by a consumer who has submitted to the agency a copy of a valid police report, investigative report, or complaint made under Section 32.51 (Fraudulent Use or Possession of Identifying Information) Penal Code.

SECTION 5. Amends Chapter 35D, Business & Commerce Code, by adding Section 35.58, as follows:

Sec. 35.58. CONFIDENTIALITY OF SOCIAL SECURITY NUMBER. (a) Prohibits a person other than government or governmental subdivision or agency from taking certain actions.

(b) Provides that a person that is using an individual's social security number before January 1, 2004, in a manner prohibited by Subsection (a) may continue that use if certain requirements are met.

(c) Prohibits a person, other than government or governmental subdivision or agency, from denying services to an individual because the individual makes a written request under Subsection (b).

(d) Provides that this section does not apply to the collection, use, or release of a social security number that is required by state or federal law, including Chapter 552 (Public Information), Government Code; or the use of social security number for internal verification or administrative purposes.

SECTION 6. (a) Provides that, except as provided by Subsection (b) of this section, this Act takes effect September 1, 2003.

(b) Provides that Section 35.58, Business & Commerce Code, as added by this Act, takes effect January 1, 2004.