

## **BILL ANALYSIS**

C.S.S.B. No. 100  
By: Ellis  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, a copy of a valid police report, investigative report, or complaint is required to obtain a security freeze on a person's assets in the event of identity theft. Victims of identity theft can use a freeze to prevent impostors from getting new credit, loans, and services in the victim's name. However, given the nature of identity theft, preventive actions are most effective if taken as quickly as possible after the initial theft has occurred.

If enacted, the proposed committee substitute for Senate Bill No. 100 allows a consumer to obtain a security freeze on his or her credit file without a police report.

### **RULEMAKING AUTHORITY**

It is the opinion of the Committee on Business and Industry that 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 20.034(a), Business & Commerce Code, to require a consumer reporting agency, upon written request sent by certified mail that includes proper identification provided by a consumer, to place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request. Deletes existing text requiring the consumer to include certain additional documentation with the written request and identification.

SECTION 2. Amends Section 20.0385, Business & Commerce Code, to provide that the requirement to place a security freeze on a consumer file does not apply to a consumer reporting agency that acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or to multiple consumer reporting agencies; nor does it apply to a consumer reporting agency that does not maintain a permanent database of credit information from which new consumer reports are produced.

SECTION 3. Amends Section 20.04, Business & Commerce Code, to allow for the temporary lifting of a security freeze for a designated period of time or for an identified requestor, as well as allowing for the complete removal of a security freeze. Clearly specified would be that the amount of the charge for placing a security freeze on a consumer file, temporarily lifting a security freeze for a designated period, or completely removing a security freeze may not exceed \$10.00 per request and that the amount of the charge for temporarily lifting a security freeze for an identified requestor may not exceed \$12.00 per request. Additionally, it allows for the inclusion as a service exempt from charge by a consumer reporting agency a request for a security freeze made by a consumer who has submitted to the consumer reporting agency a copy of a valid police report, investigative report, or complaint involving the alleged commission of an offense under Section 32.51 (Fraudulent Use or Possession of Identifying Information), Penal Code. Makes a conforming change.

SECTION 4. Repeals Section 20.037(e), Business & Commerce Code, which forbade a consumer reporting agency from charging a fee for the requests outlined in SECTION 3 above.

SECTION 5. Makes application of this Act prospective.

C.S.S.B. 100 79(R)

SECTION 6. Effective date: Upon passage or September 1, 2005.

**EFFECTIVE DATE**

September 1, 2005, or immediately if the bill is passed by the super-majority vote in both houses required by Article III, Section 39, of the Texas Constitution.

**COMPARISON OF SUBSTITUTE TO ORIGINAL BILL**

The committee substitute differs from the original bill in that the substitute expands the legislation to allow for the complete removal of a security freeze as well as for the temporary lifting of a security freeze for a designated period or for an identified requestor.

The substitute further permits consumer reporting agencies to charge specified fees for these actions.