

By: Giddings

H.B. No. 1087

Substitute the following for H.B. No. 1087:

By: Oliveira

C.S.H.B. No. 1087

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the placement of a security freeze on the
3 consumer file or other record created or maintained by a consumer
4 reporting agency regarding a person under 16 years of age.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 20, Business & Commerce Code, is amended
7 by adding Subchapter E to read as follows:

8 SUBCHAPTER E. SECURITY FREEZE FOR CHILD

9 Sec. 20.21. DEFINITIONS. In this subchapter:

10 (1) "Protected consumer" means an individual who
11 resides in this state and is younger than 16 years of age at the time
12 a request for the placement of a security freeze is made.

13 (2) "Record," with respect to a protected consumer,
14 means a compilation of information identifying a protected consumer
15 created by a consumer reporting agency solely to comply with this
16 subchapter.

17 (3) "Representative" means a person who provides to a
18 consumer reporting agency sufficient proof of authority to act on
19 behalf of a protected consumer.

20 (4) "Security freeze," with respect to a protected
21 consumer, means:

22 (A) if a consumer reporting agency does not have
23 a consumer file pertaining to the protected consumer, a restriction
24 that:

1 (i) is placed on the protected consumer's
2 record in accordance with this subchapter; and

3 (ii) prohibits a consumer reporting agency
4 from releasing a consumer report relating to the extension of
5 credit involving the consumer's record without the express
6 authorization of the consumer's representative or the consumer, as
7 applicable; or

8 (B) if a consumer reporting agency has a consumer
9 file pertaining to the protected consumer, a restriction that:

10 (i) is placed on the protected consumer's
11 consumer report in accordance with this subchapter; and

12 (ii) except as otherwise provided by this
13 subchapter, prohibits a consumer reporting agency from releasing
14 the protected consumer's consumer report relating to the extension
15 of credit involving that consumer file, or any information derived
16 from the protected consumer's consumer report.

17 Sec. 20.22. APPLICABILITY; CONFLICT OF LAW. (a) This
18 subchapter does not apply to the use of a protected consumer's
19 consumer report or record by:

20 (1) a person administering a credit file monitoring
21 subscription service to which:

22 (A) the protected consumer has subscribed; or

23 (B) the representative of the protected consumer
24 has subscribed on behalf of the protected consumer;

25 (2) a person providing the protected consumer or the
26 protected consumer's representative with a copy of the protected
27 consumer's consumer report on request of the protected consumer or

1 the protected consumer's representative;

2 (3) a consumer reporting agency with respect to a
3 database or file that consists entirely of information concerning,
4 and is used solely for, one or more of the following:

5 (A) criminal history record information;

6 (B) personal loss history information;

7 (C) fraud prevention or detection;

8 (D) tenant screening; or

9 (E) employment screening; or

10 (4) an entity described by Section 20.038(11), (12),
11 or (13).

12 (b) To the extent of a conflict between a provision of this
13 subchapter relating to a protected consumer and another provision
14 of this chapter, this subchapter controls.

15 Sec. 20.23. PROOF OF AUTHORITY AND IDENTIFICATION. (a)
16 Documentation that shows a person has authority to act on behalf of
17 a protected consumer is considered sufficient proof of authority
18 for purposes of this subchapter, including:

19 (1) an order issued by a court; or

20 (2) a written, notarized statement signed by a
21 representative that expressly describes the authority of the
22 representative to act on behalf of a protected consumer.

23 (b) Information or documentation that identifies a
24 protected consumer or a representative of a protected consumer is
25 considered sufficient proof of identity for purposes of this
26 subchapter, including:

27 (1) a social security number or a copy of the social

1 security card issued by the United States Social Security
2 Administration;

3 (2) a certified or official copy of a birth
4 certificate issued by the entity authorized to issue the birth
5 certificate;

6 (3) a copy of a driver's license or identification card
7 issued by the Department of Public Safety; or

8 (4) any other government-issued identification.

9 Sec. 20.24. USE OF RECORD TO CONSIDER CREDITWORTHINESS OR
10 FOR OTHER PURPOSES PROHIBITED. A protected consumer's record may
11 not be created or used to consider the protected consumer's
12 creditworthiness, credit standing, credit capacity, character,
13 general reputation, personal characteristics, or mode of living for
14 any purpose described by Section 20.01(4).

15 Sec. 20.25. REQUEST TO PLACE A SECURITY FREEZE; CREATION OF
16 RECORD. (a) Except as provided by Subsection (b), a consumer
17 reporting agency shall place a security freeze on a protected
18 consumer's consumer file if:

19 (1) the consumer reporting agency receives a request
20 from the protected consumer's representative for the placement of
21 the security freeze as provided by this section; and

22 (2) the protected consumer's representative:

23 (A) submits the request to the consumer reporting
24 agency at the address or other point of contact of and in the manner
25 specified by the consumer reporting agency;

26 (B) provides to the consumer reporting agency
27 sufficient proof of identification of the protected consumer and

1 the representative;

2 (C) provides to the consumer reporting agency
3 sufficient proof of authority to act on behalf of the protected
4 consumer; and

5 (D) pays to the consumer reporting agency a fee
6 as provided by Section 20.29.

7 (b) If a consumer reporting agency does not have a consumer
8 file pertaining to a protected consumer when the consumer reporting
9 agency receives a request under Subsection (a) and if the
10 requirements of Subsection (a) are met, the consumer reporting
11 agency shall create a record for the protected consumer and place a
12 security freeze on the protected consumer's record.

13 (c) The consumer reporting agency shall place the security
14 freeze on the protected consumer's consumer file or record, as
15 applicable, not later than the 30th day after receiving a request
16 that meets the requirements of Subsection (a).

17 Sec. 20.26. RELEASE OF CONSUMER REPORT PROHIBITED. Unless
18 a security freeze on a protected consumer's consumer file or record
19 is removed under Section 20.28 or 20.30, a consumer reporting
20 agency may not release any consumer report relating to the
21 protected consumer, any information derived from the protected
22 consumer's consumer report, or any record created for the protected
23 consumer.

24 Sec. 20.27. PERIOD OF SECURITY FREEZE. A security freeze on
25 a protected consumer's consumer file or record remains in effect
26 until:

27 (1) the protected consumer or the protected consumer's

1 representative requests that the consumer reporting agency remove
2 the security freeze in accordance with Section 20.28; or

3 (2) a consumer reporting agency removes the security
4 freeze under Section 20.30.

5 Sec. 20.28. REMOVAL OF SECURITY FREEZE. (a) A protected
6 consumer or a protected consumer's representative may remove a
7 security freeze on a protected consumer's consumer file or record
8 if the protected consumer or representative:

9 (1) submits a request for the removal of the security
10 freeze to the consumer reporting agency at the address or other
11 point of contact of and in the manner specified by the consumer
12 reporting agency;

13 (2) provides to the consumer reporting agency:

14 (A) in the case of a request by the protected
15 consumer:

16 (i) sufficient proof of identification of
17 the protected consumer; and

18 (ii) proof that the sufficient proof of
19 authority for the protected consumer's representative to act on
20 behalf of the protected consumer is no longer valid; or

21 (B) in the case of a request by the
22 representative of a protected consumer:

23 (i) sufficient proof of identification of
24 the protected consumer and the representative; and

25 (ii) sufficient proof of authority to act
26 on behalf of the protected consumer; and

27 (3) pays to the consumer reporting agency a fee as

1 provided by Section 20.29.

2 (b) The consumer reporting agency shall remove the security
3 freeze on the protected consumer's consumer file or record not
4 later than the 30th day after the date the agency receives a request
5 that meets the requirements of Subsection (a).

6 Sec. 20.29. FEES. (a) A consumer reporting agency may not
7 charge a fee for any service performed under this subchapter other
8 than a fee authorized by this section.

9 (b) Except as provided by Subsection (c), a consumer
10 reporting agency may charge a reasonable fee in an amount not to
11 exceed \$10 for each placement or removal of a security freeze on the
12 protected consumer's consumer file or record.

13 (c) A consumer reporting agency may not charge a fee for the
14 placement of a security freeze under this subchapter if:

15 (1) the protected consumer's representative submits to
16 the consumer reporting agency a copy of a valid police report,
17 investigative report, or complaint involving the commission of an
18 offense under Section 32.51, Penal Code; or

19 (2) at the time the protected consumer's
20 representative makes the request for a security freeze:

21 (A) the protected consumer is under the age of
22 16; and

23 (B) the consumer reporting agency has created a
24 consumer report pertaining to the protected consumer.

25 Sec. 20.30. EFFECT OF MATERIAL MISREPRESENTATION OF FACT.

26 A consumer reporting agency may remove a security freeze on a
27 protected consumer's consumer file or record, or delete a record of

1 a protected consumer, if the security freeze was placed or the
2 record was created based on a material misrepresentation of fact by
3 the protected consumer or the protected consumer's representative.

4 Sec. 20.31. REMEDY FOR VIOLATION. Notwithstanding
5 Subchapter D or any other law, the exclusive remedy for a violation
6 of this subchapter is a suit filed by the attorney general under
7 Section 20.11.

8 SECTION 2. Sections 20.01, 20.02, 20.021, and 20.03,
9 Business & Commerce Code, are designated as Subchapter A, Chapter
10 20, Business & Commerce Code, and a heading is added to that
11 subchapter to read as follows:

12 SUBCHAPTER A. GENERAL REQUIREMENTS

13 SECTION 3. Sections 20.031, 20.032, 20.033, 20.034, 20.035,
14 20.036, 20.037, 20.038, 20.0385, and 20.039, Business & Commerce
15 Code, are designated as Subchapter B, Chapter 20, Business &
16 Commerce Code, and a heading is added to that subchapter to read as
17 follows:

18 SUBCHAPTER B. SECURITY ALERT AND SECURITY FREEZE

19 SECTION 4. Sections 20.04, 20.05, 20.06, and 20.07,
20 Business & Commerce Code, are designated as Subchapter C, Chapter
21 20, Business & Commerce Code, and a heading is added to that
22 subchapter to read as follows:

23 SUBCHAPTER C. RESTRICTIONS ON AND AUTHORITY OF CONSUMERS AND

24 CONSUMER REPORTING AGENCIES

25 SECTION 5. Sections 20.08, 20.09, 20.10, 20.11, 20.12, and
26 20.13, Business & Commerce Code, are designated as Subchapter D,
27 Chapter 20, Business & Commerce Code, and a heading is added to that

1 subchapter to read as follows:

2 SUBCHAPTER D. ENFORCEMENT

3 SECTION 6. This Act takes effect January 1, 2014.