

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS

Introduced By: Representatives Rice, Church, Ajello, and Lima

Date Introduced: February 08, 2006

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW – GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 48

4 CONSUMER EMPOWERMENT AND IDENTITY THEFT PREVENTION ACT OF 2006

5 **6-48-1. Short title.** – This chapter may be cited as "The Consumer Empowerment and
6 Identity Theft Prevention Act of 2006".

7 **6-48-2. Purpose.** – This act establishes the right of consumers to protect themselves from
8 identity theft or fraud by conferring upon them the right to voluntarily place a security freeze on
9 their credit report.

10 **6-48-3. Legislative findings.** – The general assembly finds and declares that:

11 (a) Identity theft is a growing menace for consumers in the new economy, as vast
12 quantities of sensitive, personal information has become vulnerable to criminal interception and
13 misuse;

14 (b) Identity theft has become a major law enforcement challenge;

15 (c) An integral part of many identity thefts involves the interception of personal financial
16 data, the fraudulent acquisition of credit cards or other financial products in another person's
17 name;

18 (d) Identity theft is an act that violates the privacy of our citizens, ruins their good names
19 and may subject them to restricted access to credit, diminished employment opportunities, and

1 months or years of effort to repair damage to credit histories;

2 (e) Social security numbers are frequently used as identification numbers in many
3 computer files, giving access to information an individual may want kept private, making it is
4 wise to limit access to an individual's social security number whenever possible; and

5 (f) It is therefore a valid public purpose for the Rhode Island general assembly to ensure
6 that the private financial information and social security numbers of the citizens of the state of
7 Rhode Island are less accessible, in order to mitigate the potential for more identity theft to occur.

8 **6-48-4. Definitions.** – As used in this chapter:

9 (a) "Person" means any individual, partnership, corporation, trust, estate, cooperative,
10 association, government or governmental subdivision or agency, or other entity.

11 (b) "Consumer" means an individual who is also a resident of this state.

12 (c) "Consumer reporting agency" has the meaning ascribed to it in 15 U.S.C. sec.
13 1681(a)(f).

14 (d) "Consumer report" has the meaning ascribed to it in 15 U.S.C. sec. 1681(a)(d).

15 (e) "Credit card" has the same meaning as in section 103 of 15 U.S.C. section 1601 et.
16 seq. (The Truth in Lending Act.)

17 (f) "Debit card" means any card or device issued by a financial institution to a consumer
18 for use in initiating an electronic fund transfer from the account holding assets of the consumer at
19 such financial institution, for the purpose of transferring money between accounts or obtaining
20 money, property, labor, or services.

21 (g) "Proper identification" means proper identification as defined in 15 U.S.C. sec.
22 1681h(a) (1).

23 (i) "Security freeze" means a notice placed in a consumer's credit report at the request of
24 the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from
25 releasing the consumer's credit report or score related to the extension of credit.

26 (j) "Reviewing the account" or "account review" includes activities related to account
27 maintenance, monitoring, credit line increases, and account upgrades and enhancements.

28 **6-48-5. Security freeze – Timing, covered entities, cost.** – (a) A consumer may elect to
29 place a "security freeze" on his or her credit report by making a request by certified mail to a
30 consumer reporting agency at an address designated by the consumer reporting agency to receive
31 such requests.

32 (b) A consumer reporting agency shall place a security freeze on a consumer's credit
33 report no later than five (5) business days after receiving from the consumer:

34 (1) a written request as described in subsection (a);

1 (2) proper identification; and

2 (3) payment of a fee, if applicable.

3 (c) The consumer reporting agency shall send a written confirmation of the security
4 freeze to the consumer within ten (10) business days of placing the freeze and at the same time
5 shall provide the consumer with a unique personal identification number, password or similar
6 device to be used by the consumer when providing authorization for the release of his or her
7 credit for a specific period of time, or when permanently removing the freeze.

8 (d) If the consumer wishes to allow his or her credit report to be accessed for a specific
9 period of time while a freeze is in place, he or she shall contact the consumer reporting agency,
10 using a point of contact designated by the consumer reporting agency request that the freeze be
11 temporarily lifted, and provide the following:

12 (1) proper identification;

13 (2) the unique personal identification number or password provided by the consumer
14 reporting agency pursuant to subsection (c) of this section;

15 (3) the proper information regarding the time period for which the report shall be
16 available to users of the credit report; and

17 (4) a fee if applicable.

18 (e) A consumer reporting agency that receives a request from a consumer to temporarily
19 lift a freeze on a credit report pursuant to subsection (d) of this section shall comply with the
20 request no later than three (3) business days after receiving the request.

21 (f) A consumer reporting agency may develop procedures involving the use of telephone,
22 fax, or, upon the consent of the consumer in the manner required by the Electronic Signatures in
23 Global and National Commerce Act hereinafter referred to as ("E-Sign") for legally required
24 notices, by the Internet, e-mail, or other electronic media to receive and process a request from a
25 consumer to temporarily lift a freeze on a credit report pursuant to subsection (d) of this section in
26 an expedited manner.

27 (g) A consumer reporting agency shall remove or temporarily lift a freeze placed on a
28 consumer's credit report only in the following cases:

29 (1) upon consumer request, pursuant to subsection (d) or (j) of this section; and

30 (2) if the consumer's credit report was frozen due to a material misrepresentation of fact
31 by the consumer. If a consumer reporting agency intends to remove a freeze upon a consumer's
32 credit report pursuant to this paragraph, the consumer reporting agency shall notify the consumer
33 in writing prior to removing the freeze on the consumer's credit report.

34 (h) If a third-party requests access to a consumer credit report on which a security freeze

1 is in effect, and this request is in connection with an application for credit or any other use, and
2 the consumer does not allow his or her credit report to be accessed, then the third-party may treat
3 the application as incomplete.

4 (i) A security freeze shall remain in place until the consumer requests using a point of
5 contact designated by the consumer reporting agency, that the security freeze be removed. A
6 consumer reporting agency shall remove a security freeze within three (3) business days of
7 receiving a request for removal from the consumer, who provides all of the following:

- 8 (1) proper identification;
- 9 (2) the unique personal identification number or password provided by the consumer
10 reporting agency pursuant to subsection (c) of this section; and
- 11 (3) a fee, if applicable.

12 (j) A consumer reporting agency shall require proper identification of the person making
13 a request to place or remove a security freeze.

14 (k) A consumer reporting agency may not suggest or otherwise state or imply to a third-
15 party that the consumer's security freeze reflects a negative credit score, history, report or rating.

16 (l) The provisions of this section do not apply to the use of a consumer credit report by
17 any of the following:

18 (1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the
19 consumer has or, prior to assignment, had an account, contract or debtor-creditor relationship for
20 the purposes of reviewing the account or collecting the financial obligation owing for the account,
21 contract, or debt;

22 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom
23 access has been granted under subsection (d) of this section for purposes of facilitating the
24 extension of credit or other permissible use;

25 (3) Any person acting pursuant to a court order, warrant, or subpoena;

26 (4) A state or local agency which administers a program for establishing and enforcing
27 child support obligations;

28 (5) The department of health or its agents or assigns acting to investigate fraud;

29 (6) The attorney general or its agents or assigns acting to investigate fraud;

30 (7) The division of taxation or its agents or assigns acting to investigate or collect
31 delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

32 (8) The use of a credit report by a person for purposes of prescreening as defined by the
33 federal Fair Credit Reporting Act (15 U.S.C.A. section 1681 et. seq.);

34 (9) Any person or entity administering a credit file monitoring subscription service to

1 which the consumer has subscribed;

2 (10) Any person or entity for the purpose of providing a consumer with a copy of his or
3 her credit report upon the consumer's request; and

4 (11) Any person or entity for use in setting or adjusting a rate, adjusting a claim, or
5 underwriting for insurance purposes.

6 (m) A consumer may be charged a fee of no more than ten dollars (\$10.00) for any
7 security freeze services, including, but not limited to, the placement, temporary lifting and
8 permanent removal of a security freeze. The consumer may not be charged for a one-time reissue
9 of a new personal identification number; provided, however, the consumer may be charged not
10 more than five dollars (\$5.00) for subsequent instances of loss of the personal identification
11 number. However, a consumer reporting agency may not charge any fee to a victim of identity
12 theft who has submitted a copy of an incident report from or a complaint to a law enforcement
13 agency, or to a consumer who is of sixty-five (65) years of age or older.

14 Entities not required to place a security freeze.

15 (a) The following entities are not required to place a security freeze on a credit report:

16 (1) a consumer reporting agency that acts only as a reseller of credit information by
17 assembling and merging information contained in the database of another consumer reporting
18 agency or multiple consumer credit reporting agencies, and does not maintain a permanent data
19 base of credit information from which new consumer credit report are produced. However, a
20 consumer reporting agency acting as a reseller shall honor any security freeze placed on a
21 consumer credit report by another consumer reporting agency.

22 (2) A check services or fraud prevention services company, which issues reports on
23 incidents of fraud or authorizations for the purpose of approving or processing negotiable
24 instruments, electronic funds transfers, or similar methods of payments.

25 (3) A deposit account information service company, which issues reports regarding
26 account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information
27 regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a
28 consumer request for a deposit account at the inquiring bank or financial institution.

29 (4) Any database or file which consists of any information adverse to the interests of the
30 consumer, including, but not limited to, criminal record information, personal loss history
31 information, information used for fraud prevention or detection, tenant screening, and
32 employment screening.

33 **6-48-6. Notice of rights.** – At any time that a consumer is required to receive a summary
34 of rights required under section 609 of the federal Fair Credit Reporting Act, (15 U. S.C.A.

1 section 1681 et. seq.) the following notice shall be included:

2 **Consumers have the right to obtain a security freeze**

3 You may obtain a security freeze on your credit report to protect your privacy and ensure
4 that credit is not granted in your name without your knowledge. You have a right to place a
5 "security freeze" on your credit report pursuant to the R.I.G.L. chapter 6-48 to the Identity Theft
6 Prevention Act of 2006.

7 The security freeze will prohibit a consumer reporting agency from releasing any
8 information in your credit report without your express authorization or approval.

9 The security freeze is designed to prevent credit, loans, and services from being approved
10 in your name without your consent. When you place a security freeze on your credit report,
11 within five (5) business days you will be provided a personal identification number or password
12 to use if you choose to remove the freeze on your credit report or to temporarily authorize the
13 release of your credit report for a specific period of time after the freeze is in place. To provide
14 that authorization, you must contact the consumer reporting agency and provide all of the
15 following:

16 (1) The unique personal identification number or password provided by the consumer
17 reporting agency.

18 (2) Proper identification to verify your identity.

19 (3) The proper information regarding the period of time for which the report shall be
20 available to users of the credit report.

21 A consumer reporting agency that receives a request from a consumer to temporarily lift
22 a freeze on a credit report shall comply with the request no later than three (3) business days after
23 receiving the request.

24 A security freeze does not apply to circumstances where you have an existing account
25 relationship and a copy of your report is requested by your existing creditor or its agents or
26 affiliates for certain types of an account review, collection, fraud control or similar activities.

27 If you are actively seeking a new credit, loan, utility, telephone, or insurance account,
28 you should understand that the procedures involved in lifting a security freeze may slow your
29 own applications for credit. You should plan ahead and lift a freeze – either completely if you are
30 shopping around, or specifically for a certain creditor – with enough advance notice before you
31 apply for new credit for the lifting to take effect.

32 You have a right to bring a civil action against someone who violates your rights under
33 the credit reporting laws. The action can be brought against a consumer reporting agency or a
34 user of your credit report.

1 Unless you are sixty-five (65) years of age or older, or you are a victim of identity theft
2 with an incident report or a complaint from a law enforcement agency, a consumer reporting
3 agency has the right to charge you up to ten dollars (\$10.00) to place a freeze on your credit
4 report, up to ten dollars (\$10.00) to temporarily lift a freeze on your credit report, depending on
5 the circumstances, and up to ten dollars (\$10.00) to remove a freeze from your credit report. If
6 you are sixty-five (65) years of age or older or are a victim of identity theft with a valid incident
7 report or complaint, you may not be charged a fee by a consumer reporting agency for placing,
8 temporarily lifting, or removing a freeze.

9 **6-48-7. Violations; Penalties.** – (a) Any person who willfully fails to comply with any
10 requirement imposed under this subchapter with respect to any consumer is liable to that
11 consumer in an amount equal to the sum of:

12 (1) any actual damages sustained by the consumer as a result of the failure or damages of
13 not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000); or

14 (2) such amount of punitive damages as the court allows; and

15 (3) in the case of any successful action to enforce any liability under this section, the
16 costs of the action together with reasonable attorneys' fees as determined by the court.

17 (b) Any person who obtains a consumer report, requests a security freeze, requests the
18 temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency
19 under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer
20 reporting agency for actual damages sustained by the consumer reporting agency or one thousand
21 dollars (\$1,000), whichever is greater.

22 (c) Any person who is negligent in failing to comply with any requirement imposed under
23 this subchapter with respect to any consumer is liable to that consumer in an amount equal to the
24 sum of:

25 (1) any actual damages sustained by the consumer as a result of the failure and;

26 (2) in the case of any successful action to enforce any liability under this section, the
27 costs of the action together with reasonable attorneys' fees as determined by the court.

28 (d) Upon a finding by the court that an unsuccessful pleading, motion, or other paper
29 filed in connection with an action under this subchapter was filed in bad faith or for the purposes
30 of harassment, the court shall award to the prevailing party attorneys' fees reasonable in relation
31 to the work expended in responding to the pleading, motion, or other paper.

32 **6-48-8. Social security number protection - Effective January 1, 2008.** – (a) Except
33 as provided in subsection (c) of this section a person or entity, including a state or local agency,
34 may not do any of the following:

1 (1) Intentionally communicate or otherwise make available to the general public an
2 individual's social security number;

3 (2) Print an individual's social security number on any card required for the individual to
4 access products or services provided by the person or entity;

5 (3) Require an individual to transmit his or her social security number over the Internet,
6 unless the connection is secure or the social security number is encrypted;

7 (4) Require an individual to use his or her social security number to access an Internet
8 Website, unless a password or unique personal identification number or other authentication
9 device is also required to access the Internet Website; and

10 (5) Print an individual's social security number on any materials that are mailed to the
11 individual, unless state or federal law requires the social security number to be on the document
12 to be mailed.

13 Notwithstanding this paragraph, social security numbers may be included in applications
14 and forms sent by mail, including documents sent as part of an application or enrollment process,
15 or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of
16 the social security number. A social security number that is permitted to be mailed under this
17 section may not be printed, in whole or in part, on a postcard or other mailer not requiring an
18 envelope, or visible on the envelope or without the envelope having been opened.

19 (b) The provisions of this section do not apply to documents that are recorded or required
20 to be open to the public pursuant to the Rhode Island general laws chapter 42-46. This section
21 does not apply to records that are by statute or case law required to be made available to the
22 public by entities provided for in the Rhode Island Constitution.

23 (c) This section does not prevent the collection, use, or release of a social security
24 number as required by state or federal law or the use of a social security number for internal
25 verification or administrative purposes.

26 (d) The penalties for violating this section shall be:

27 (1) Any person who violates this section is responsible for the payment of a civil fine of
28 not more than three thousand dollars (\$3,000).

29 (2) A person who knowingly violates this section is guilty of a misdemeanor punishable
30 by imprisonment for not more than thirty (30) days, or a fine of not more than five thousand
31 dollars (\$5,000), or both.

32 **6-48-9. Severability.** – If any provision of this chapter or the application thereof to any
33 person or circumstances is held invalid, such invalidity shall not affect other provisions or
34 applications of the chapter, which can be given effect without the invalid provision or application,

1 [and to this end the provision of this chapter are declared to be severable.](#)

2 SECTION 2. This act shall take effect upon passage except for section 6-48-5 and 6-48-7
3 which shall take effect on January 1, 2007.

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LC01484/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS

1 This act would create the consumer Empowerment and Identity Theft Prevention Act of
2 2006. This act would allow consumers, including business consumers, to put a security freeze on
3 their credit and would provide for the lifting of the freeze of credit, notice requirements and
4 guidelines for the consumer reporting agency, disclosures and penalties.

5 This act would take effect upon passage except for section 648-5 and 648-7 which
6 would take effect on January 1, 2007.

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