

Ohio Revised Code Annotated

Title 13 – Commercial Transactions - - Ohio Uniform Commercial Code

Chapter 1349 – Consumer Protection

§ 1349.52. Consumer may elect to place security freeze on credit report

(A) As used in this section:

(1) "Consumer credit reporting agency" means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of maintaining consumers' credit information for the purpose of furnishing credit reports to third parties.

(2) "Credit report" means any written, oral, or other communication of any credit information by a consumer credit reporting agency that operates or maintains a database of consumer credit information bearing on a consumer's credit worthiness, credit standing, or credit capacity.

(3) "Security freeze" means a restriction placed in a consumer's credit report at the request of the consumer that prohibits a consumer credit reporting agency from releasing all or any part of the consumer's credit report or any information derived from the consumer's credit report relating to the extension of credit without the express authorization of the consumer.

(4) "Other comparable service" means a service for which a receipt of delivery is provided.

(B) A consumer may elect to place a security freeze on the consumer's credit report by making a request to a consumer credit reporting agency in writing by certified mail or other comparable service or by any secured electronic method authorized by the consumer credit reporting agency.

(C) A consumer credit reporting agency shall place a security freeze on a credit report not later than three business days after receiving a request pursuant to division (B) of this section. The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within five business days of placing the security freeze and, at the same time, shall provide the consumer with a unique personal identification number or password. The number or password shall not be the consumer's social security number.

(D) A consumer may allow the consumer's credit report to be accessed for a specific party or period of time while a security freeze is in place by contacting the consumer credit reporting agency by certified mail or other comparable service, secure electronic method selected by the consumer credit reporting agency, or telephone and requesting that the security freeze be temporarily lifted, and providing all of the following:

(1) Information generally considered sufficient to identify the consumer;

(2) The unique personal identification number or password provided by the consumer credit reporting agency pursuant to division (C) of this section;

(3) The proper information regarding the third party who is to receive the consumer credit report or the time period for which the consumer credit report shall be available to users of the credit report.

(E) (1) A consumer credit reporting agency that receives a request in writing by certified mail or other comparable service from a consumer to temporarily lift a security freeze on a credit report pursuant to division (D) of this section shall comply with the request not later than three business days after receiving the request.

(2) Except as otherwise provided in this section, a consumer credit reporting agency that receives a request by secure electronic method selected by the consumer credit reporting agency, telephone, or another

means authorized by the consumer credit reporting agency from a consumer to temporarily lift a security freeze on a credit report pursuant to division (D) of this section shall comply with the request not later than fifteen minutes after receiving the request unless any of the following applies:

(a) The consumer fails to meet the requirements of division (D) of this section.

(b) The consumer credit reporting agency's ability to temporarily lift the security freeze within fifteen minutes is prevented by an act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena; unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence; operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption; governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives; regularly scheduled maintenance, during other than normal business hours of, or updates to, the consumer credit reporting agency's systems; or commercially reasonable maintenance of, or repair to, the consumer credit reporting agency's systems that is unexpected or unscheduled.

(3) A consumer credit reporting agency shall remove or temporarily lift a security freeze placed on a credit report only in the following cases:

(a) Upon consumer request pursuant to division (D) of this section;

(b) If the credit report was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a security freeze upon a credit report pursuant to division (E)(3)(b) of this section, the consumer credit reporting agency shall notify the consumer in writing at least five business days prior to removing the security freeze on the credit report.

(F) A consumer credit reporting agency, when required by the "Fair Credit Reporting Act," *84 Stat. 1128 (1970), 15 U.S.C. 1681g(c)*, to provide a summary of rights, or when receiving a request from a consumer for information about a security freeze, shall provide the following written notice:

"Ohio Consumers Have the Right to Obtain a Security Freeze:

You may obtain a security freeze on your credit report to protect your privacy and ensure that credit is not granted in your name without your knowledge. You have a right to place a "security freeze" on your credit report pursuant to Ohio law. The security freeze will prohibit a consumer credit reporting agency from releasing any information in your credit report without your express authorization or approval. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. When you place a security freeze on your credit report, within five business days you will be provided a personal identification number or password to use if you choose to remove the security freeze on your credit report or to temporarily authorize the release of your credit report for a specific party or parties or for a specific period of time after the security freeze is in place. To provide that authorization, you must contact the consumer credit reporting agency and provide all of the following:

(a) Information generally considered sufficient to identify the consumer;

(b) The unique personal identification number or password provided by the consumer credit reporting agency;

(c) The proper information regarding the third party who is to receive the consumer credit report or the time period for which the credit report shall be available to users of the credit report.

A consumer credit reporting agency that receives a request from a consumer to temporarily lift a security freeze on a credit report shall comply with the request not later than fifteen minutes after receiving the request.

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

If you are actively seeking credit, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze, either completely if you are shopping around, or specifically for a certain creditor, a few days before actually applying for new credit."

(G) Except as otherwise provided in division (E) of this section, a consumer credit reporting agency shall keep a security freeze in place until the consumer requests that the security freeze be removed. A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request by telephone or by any other means authorized by the consumer credit reporting agency for removal from the consumer when the consumer provides the following:

(1) Information generally considered sufficient to identify the consumer;

(2) The unique personal identification number or password provided by the consumer credit reporting agency pursuant to division (C) of this section.

(H) A consumer credit reporting agency may release a credit report on which a security freeze has been placed to the following:

(1) A person, or subsidiary, affiliate, or agent of that person, or an assignee of a financial obligation owing by the consumer to that person, or a prospective assignee of a financial obligation owing by the consumer to that person in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

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

(3) Any state or local law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;

(4) Any federal, state, or local governmental entity, agency, or instrumentality that is acting within the entity's, agency's, or instrumentality's authority;

(5) A state or local child support enforcement agency;

(6) A person seeking to use the information contained in the consumer's credit report for the purpose of prescreening pursuant to the "Fair Credit Reporting Act," *84 Stat. 1128 (1970), 15 U.S.C. 1681 et seq.*;

(7) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;

(8) Any person or entity providing a consumer with a copy of the consumer's credit report upon the consumer's request;

(9) Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes;

(10) Any person or entity acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders provided those responsibilities are consistent with section 1681b of the "Fair Credit Reporting Act," *15 U.S.C. 1681 et seq.*

(I) (1) A consumer credit reporting agency may charge a consumer a reasonable fee not to exceed five dollars for placing a security freeze on that consumer's credit report. If the consumer is a victim of a violation of *section 2913.49 of the Revised Code*, the consumer credit reporting agency shall not charge a fee to place a security freeze on that consumer's credit report, but that consumer shall send a copy of the police report related to the violation of *section 2913.49 of the Revised Code* to the consumer credit reporting agency.

(2) A consumer credit reporting agency may charge a consumer a reasonable fee not to exceed five dollars for removing or temporarily lifting a security freeze on that consumer's credit report if the consumer elects to remove or temporarily lift the security freeze on the consumer's credit report for a specific creditor and may charge a consumer a reasonable fee not to exceed five dollars if the consumer elects to temporarily lift the security freeze for a specified period of time.

(3) A consumer credit reporting agency may charge a reasonable fee not to exceed five dollars to a consumer who fails to retain the original personal identification number provided by the consumer credit reporting agency and must be reissued the same or a new personal identification number.

(J) If a security freeze is in place, a consumer credit reporting agency shall not change any of the following official information in a credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the consumer's file: name; date of birth; social security number; or address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

(K) The provisions of this section do not apply to a consumer credit reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer credit reporting agency or multiple consumer credit reporting agencies and does not maintain a permanent database of credit information from which new credit reports are produced, except that the reseller of credit information shall honor any security freeze placed on a credit report by another consumer credit reporting agency.

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

(1) A check services company or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;

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

(M) (1) The attorney general may conduct an investigation if the attorney general, based on complaints or the attorney general's own inquiries, has reason to believe that a consumer credit reporting agency has failed or is failing to comply with this section.

(2) In any investigation conducted pursuant to this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and subpoena the production of any book, document, record, or other relevant matter.

(3) If the attorney general under division (M)(2) of this section subpoenas the production of any relevant matter that is located outside this state, the attorney general may designate a representative, including an

official of the state in which that relevant matter is located, to inspect the relevant matter on the attorney general's behalf. The attorney general may carry out similar requests received from officials of other states.

(4) Any person who is subpoenaed to produce relevant matter pursuant to division (M)(2) of this section shall make that relevant matter available at a convenient location within this state or the state of the representative designated under division (M)(3) of this section.

(5) Any person who is subpoenaed as a witness or to produce relevant matter pursuant to division (M)(2) of this section may file in the court of common pleas of Franklin county, the county in this state in which the person resides, or the county in this state in which the person's principal place of business is located a petition to extend for good cause shown the date on which the subpoena is to be returned or to modify or quash for good cause shown that subpoena. The person may file the petition at any time prior to the date specified for the return of the subpoena or within twenty days after the service of the subpoena, whichever is earlier.

(6) Any person who is subpoenaed as a witness or to produce relevant matter pursuant to division (M)(2) of this section shall comply with the terms of the subpoena unless the court orders otherwise prior to the date specified for the return of the subpoena or, if applicable, that date as extended. If a person fails without lawful excuse to obey a subpoena, the attorney general may apply to the court of common pleas for an order that does one or more of the following:

- (a) Compels the requested discovery;
- (b) Adjudges the person in contempt of court;
- (c) Grants injunctive relief to restrain the person from failing to comply with *section 1347.12* or *1349.19 of the Revised Code*, whichever is applicable;
- (d) Grants injunctive relief to preserve or restore the status quo;
- (e) Grants other relief that may be required until the person obeys the subpoena.

(N) (1) The attorney general has the authority to bring a civil action in a court of common pleas for appropriate relief under this section, including a temporary restraining order, preliminary or permanent injunction, and civil penalties, if it appears that a consumer credit reporting agency has failed or is failing to comply with this section. Upon its finding that a consumer credit reporting agency has intentionally or recklessly failed to comply with this section, the court shall impose a civil penalty upon the consumer credit reporting agency of up to two thousand five hundred dollars for each instance that the consumer credit reporting agency fails to comply.

(2) Any civil penalty that is assessed under division (N)(1) of this section shall be deposited into the consumer protection enforcement fund created by *section 1345.51 of the Revised Code*.

(3) In determining the appropriate civil penalty to assess under division (N)(1) of this section, the court shall consider all relevant factors, including the degree of the defendant's culpability, any history of prior violations of this section by the defendant, the defendant's ability to pay, the effect of the court's decision on the defendant's ability to continue to conduct the defendant's business, and whether or not the defendant acted in bad faith in failing to comply with this section.

(O) Any consumer credit reporting agency that is found by the court to have failed to comply with this section is liable to the attorney general for the attorney general's costs in conducting an investigation and bringing an action under this section.

(P) The rights and remedies that are provided under this section are in addition to any other rights or remedies that are provided by law.

§ 1349.53. Civil action by consumer; liability of unauthorized person obtaining report

(A) If a consumer credit reporting agency willfully fails to comply with division (C) or (J) of *section 1349.52 of the Revised Code*, the consumer may file a civil action against the consumer credit reporting agency. In the civil action, the consumer may recover all of the following:

(1) Actual damages sustained by the consumer as a result of the consumer credit reporting agency's failure to comply with division (C) or (J) of *section 1349.52 of the Revised Code* or damages of not less than one hundred dollars and not more than one thousand dollars, whichever is greater;

(2) Punitive damages;

(3) Court costs and reasonable attorney's fees.

(B) A person who obtains a consumer's credit report from a consumer credit reporting agency under false pretenses or knowingly without the permission of the consumer is liable to the consumer credit reporting agency for actual damages sustained by the consumer credit reporting agency or one thousand dollars, whichever is greater.

(C) If a consumer credit reporting agency negligently fails to comply with division (C) or (J) of *section 1349.52 of the Revised Code*, the consumer may file a civil action against the consumer credit reporting agency. In the civil action, the consumer may recover all of the following:

(1) Actual damages sustained by the consumer as a result of the consumer credit reporting agency's failure to comply with division (C) or (J) of *section 1349.52 of the Revised Code* or as a result of the consumer credit reporting agency negligently allowing another person to obtain a consumer's credit report;

(2) Court costs and reasonable attorney's fees.

(D) If the court finds that a civil action under division (A) or (C) of this section was brought in bad faith or for the purposes of harassment, the court shall award to the prevailing party reasonable attorney's fees in relation to the work expended in responding to the civil action.

(E) A person shall bring a civil action under division (A) or (C) of this section not later than the earlier of the following:

(1) Two years after the date of discovery by the plaintiff of a violation of division (C) or (J) of *section 1349.52 of the Revised Code*;

(2) Five years after the date a violation of division (C) or (J) of *section 1349.52 of the Revised Code* occurs.

(F) A consumer credit reporting agency is not liable in damages in a civil action brought pursuant to division (A) of this section for any damages a consumer allegedly sustains as a result of the consumer credit reporting agency's placement of a security freeze in violation of division (C) of *section 1349.52 of the Revised Code* on the consumer's credit report if the consumer credit reporting agency establishes as an affirmative defense that the consumer credit reporting agency made a good faith effort to comply with that division and the consumer credit reporting agency placed a security freeze on the consumer's credit report as a result of a misrepresentation of fact by another consumer.