

115TH CONGRESS  
1ST SESSION

# S. 1816

To amend the Fair Credit Reporting Act to enhance fraud alert procedures and provide free access to credit freezes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2017

Ms. WARREN (for herself, Mr. SCHATZ, Mr. MENENDEZ, Mr. VAN HOLLEN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. MARKEY, Mr. SANDERS, Mr. WYDEN, Mr. DURBIN, Mr. MERKLEY, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Fair Credit Reporting Act to enhance fraud alert procedures and provide free access to credit freezes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freedom from Equifax  
5 Exploitation Act”.

1 **SEC. 2. DEFINITION OF CREDIT FREEZE.**

2 Section 603(q) of the Fair Credit Reporting Act (15  
3 U.S.C. 1681a(q)) is amended by adding at the end the  
4 following:

5 “(6) CREDIT FREEZE.—

6 “(A) IN GENERAL.—The term ‘credit  
7 freeze’ means a restriction placed at the request  
8 of a consumer or a personal representative of  
9 the consumer, on the consumer report of the  
10 consumer, that prohibits a consumer reporting  
11 agency from releasing the consumer report for  
12 a purpose relating to the extension of credit  
13 without the express authorization of the con-  
14 sumer.

15 “(B) EXCEPTION.—A credit freeze shall  
16 not apply to the use of a consumer report by  
17 any of the following:

18 “(i) A person, or the subsidiary, affil-  
19 iate, agent, subcontractor, or assignee of  
20 the person, with whom the consumer has,  
21 or prior to assignment had, an account,  
22 contract, or debtor-creditor relationship for  
23 the purposes of reviewing the active ac-  
24 count or collecting the financial obligation  
25 owed on the account, contract, or debt.

1 “(ii) A person, or the subsidiary, affil-  
2 iate, agent, subcontractor, or assignee of  
3 the person, to whom access has been  
4 granted pursuant to a request by the con-  
5 sumer described under section  
6 605A(i)(1)(B), for purposes of facilitating  
7 the extension of credit or other permissible  
8 use.

9 “(iii) Any person acting pursuant to a  
10 court order, warrant, or subpoena.

11 “(iv) A Federal, State, or local gov-  
12 ernment, or an agent or assignee thereof.

13 “(v) Any person for the sole purpose  
14 of providing a credit monitoring or identity  
15 theft protection service to which the con-  
16 sumer has subscribed.

17 “(vi) Any person for the purpose of  
18 providing a consumer with a copy of the  
19 consumer report or credit score of the con-  
20 sumer upon request by the consumer.

21 “(vii) Any person or entity for insur-  
22 ance purposes, including use in setting or  
23 adjusting a rate, adjusting a claim, or un-  
24 derwriting.

1 “(viii) Any person acting pursuant to  
 2 an authorization from a consumer to use  
 3 their consumer report for employment pur-  
 4 poses.”.

5 **SEC. 3. ENHANCEMENT OF FRAUD ALERT PROTECTIONS.**

6 Section 605A of the Fair Credit Reporting Act (15  
 7 U.S.C. 1681c–1) is amended—

8 (1) in subsection (a)—

9 (A) in the subsection heading, by striking  
 10 “ONE-CALL” and inserting “ONE-YEAR”;

11 (B) in paragraph (1)—

12 (i) in the paragraph heading, by strik-  
 13 ing “INITIAL ALERTS” and inserting “IN  
 14 GENERAL”;

15 (ii) in the matter preceding subpara-  
 16 graph (A), by inserting “or harmed by the  
 17 unauthorized disclosure of the financial or  
 18 personally identifiable information of the  
 19 consumer,” after “identity theft,”;

20 (iii) in subparagraph (A)—

21 (I) by striking “90 days” and in-  
 22 serting “1 year”; and

23 (II) by striking “and” at the end;

24 (iv) in subparagraph (B)—

1 (I) by inserting “1-year” before  
2 “fraud alert”; and

3 (II) by striking the period at the  
4 end and inserting “; and”; and

5 (v) by adding at the end the following:

6 “(C) upon the expiration of the 1-year pe-  
7 riod described in subparagraph (A) or a subse-  
8 quent 1-year period, and in response to a direct  
9 request by the consumer or such representative,  
10 continue the fraud alert for an additional period  
11 of 1 year if the information asserted in this  
12 paragraph remains applicable.”; and

13 (C) in paragraph (2)—

14 (i) in the matter preceding subpara-  
15 graph (A), by inserting “1-year” before  
16 “fraud alert”; and

17 (ii) in subparagraph (B), by striking  
18 “any request described in subparagraph  
19 (A)” and inserting “the consumer report-  
20 ing agency includes the 1-year fraud alert  
21 in the file of the consumer”;

22 (2) in subsection (b)—

23 (A) in the subsection heading, by striking  
24 “EXTENDED” and inserting “SEVEN-YEAR”;

25 (B) in paragraph (1)—

1 (i) in subparagraph (B)—

2 (I) by striking “5-year period be-  
3 ginning on the date of such request”  
4 and inserting “the 7-year period de-  
5 scribed in subparagraph (A)”; and

6 (II) by striking “and” at the end;

7 (ii) in subparagraph (C)—

8 (I) by striking “extended” and  
9 inserting “7-year”; and

10 (II) by striking the period at the  
11 end and inserting “; and”; and

12 (iii) by adding at the end the fol-  
13 lowing:

14 “(D) upon the expiration of the 7-year pe-  
15 riod described in subparagraph (A) or a subse-  
16 quent 7-year period, and in response to a direct  
17 request by the consumer or such representative,  
18 continue the fraud alert for an additional period  
19 of 7 years if the consumer or such representa-  
20 tive submits an updated identity theft report.”;  
21 and

22 (C) in paragraph (2), by amending sub-  
23 paragraph (A) to read as follows:

24 “(A) disclose to the consumer that the con-  
25 sumer may request a free copy of the file of the

consumer pursuant to section 612(d) during each 12-month period beginning on the date on which the 7-year fraud alert was included in the file and ending on the date of the last day that the 7-year fraud alert applies to the file of the consumer; and”;

(3) in subsection (c)—

(A) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as so redesignated, by striking “Upon the direct request” and inserting the following:

“(1) IN GENERAL.—Upon the direct request”;

and

(C) by adding at the end the following:

“(2) ACCESS TO FREE REPORTS.—If a consumer reporting agency includes an active duty alert in the file of an active duty military consumer, the consumer reporting agency shall—

“(A) disclose to the active duty military consumer that the active duty military consumer may request a free copy of the file of the active duty military consumer pursuant to sec-

tion 612(d), during each 12-month period beginning on the date on which the active duty military alert is requested and ending on the date of the last day that the active duty alert applies to the file of the active duty military consumer; and

“(B) not later than 3 business days after the date on which the active duty military consumer makes a request described in subparagraph (A), provide to the active duty military consumer all disclosures required to be made under section 609, without charge to the active duty military consumer.”;

(4) by amending subsection (d) to read as follows:

“(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish and make available to the public on the Internet website of the consumer reporting agency policies and procedures to comply with this section, including policies and procedures—

“(1) that inform consumers of the availability of 1-year fraud alerts, 7-year fraud alerts, active duty alerts, and credit freezes, as applicable;

“(2) that allow consumers to request 1-year fraud alerts, 7-year fraud alerts, and active duty



1 alerts, as applicable, and to place, temporarily lift,  
 2 or fully remove a credit freeze in a simple and easy  
 3 manner; and

4 “(3) for asserting in good faith a suspicion that  
 5 the consumer has been or is about to become a vic-  
 6 tim of identity theft, fraud, or a related crime, or  
 7 harmed by the unauthorized disclosure of the finan-  
 8 cial or personally identifiable information of the con-  
 9 sumer, for a consumer seeking a 1-year fraud alert  
 10 or credit freeze.”;

11 (5) in subsection (e), in the matter preceding  
 12 paragraph (1), by inserting “1-year or 7-year” be-  
 13 fore “fraud alert”;

14 (6) in subsection (f), by striking “or active duty  
 15 alert” and inserting “active duty alert, or credit  
 16 freeze, as applicable,”;

17 (7) in subsection (g)—

18 (A) by inserting “or has been harmed by  
 19 the unauthorized disclosure of the financial or  
 20 personally identifiable information of the con-  
 21 sumer,” after “identity theft,”; and

22 (B) by inserting “or credit freezes” after  
 23 “request alerts”; and

24 (8) in subsection (h)—

25 (A) in paragraph (1)—

- 1 (i) in the paragraph heading, by strik-
- 2 ing “INITIAL” and inserting “1-YEAR”;
- 3 (ii) in subparagraph (A), by striking
- 4 “initial” and inserting “1-year”; and
- 5 (iii) in subparagraph (B)(i), by strik-
- 6 ing “an initial” and inserting “a 1-year”;
- 7 and
- 8 (B) in paragraph (2)—
- 9 (i) in the paragraph heading, by strik-
- 10 ing “EXTENDED” and inserting “7-YEAR”;
- 11 (ii) in subparagraph (A), in the mat-
- 12 ter preceding clause (i), by striking “ex-
- 13 tended” and inserting “7-year”; and
- 14 (iii) in subparagraph (B), by striking
- 15 “an extended” and inserting “a 7-year”.

16 **SEC. 4. PROVIDING FREE ACCESS TO CREDIT FREEZES.**

17 Section 605A of the Fair Credit Reporting Act (15  
18 U.S.C. 1681c–1) is amended by adding at the end the fol-  
19 lowing:

20 “(i) CREDIT FREEZES.—

21 “(1) IN GENERAL.—Upon the direct request of  
22 a consumer, or an individual acting on behalf of or  
23 as a personal representative of a consumer, a con-  
24 sumer reporting agency that maintains a file on the  
25 consumer and has received appropriate proof of the

1 identity of the requester (as described in section  
2 1022.123 of title 12, Code of Federal Regulations,  
3 or any successor thereto) shall—

4 “(A)(i) not later than 1 business day after  
5 receiving the request sent by postal mail, toll-  
6 free telephone, or secure electronic means as es-  
7 tablished by the agency, place a credit freeze on  
8 the file of the consumer;

9 “(ii) not later than 5 business days after  
10 placing a credit freeze described in clause (i),  
11 provide the consumer with written confirmation  
12 of the credit freeze and a unique personal iden-  
13 tification number or password (other than the  
14 social security number of the consumer) for use  
15 to authorize the release of the file of the con-  
16 sumer for a specific period of time; and

17 “(iii) disclose all relevant information to  
18 the consumer relating to the procedures for  
19 temporarily lifting and fully removing a credit  
20 freeze, including a statement about the max-  
21 imum amount of time given to an agency to  
22 conduct those actions;

23 “(B) if the consumer provides a correct  
24 personal identification number or password,  
25 temporarily lift an existing credit freeze from

1 the file of the consumer for a period of time  
2 specified by the consumer for a specific user or  
3 category of users, as determined by the con-  
4 sumer—

5 “(i) not later than 1 business day  
6 after receiving the request by postal mail;  
7 or

8 “(ii) not later than 15 minutes after  
9 receiving the request by toll-free telephone  
10 number or secure electronic means estab-  
11 lished by the agency, if the request is re-  
12 ceived during regular business hours, ex-  
13 cept if the ability of the consumer report-  
14 ing agency to temporarily lift the credit  
15 freeze is prevented by—

16 “(I) an act of God, including  
17 earthquakes, hurricanes, storms, or  
18 similar natural disaster or phe-  
19 nomenon, or fire;

20 “(II) unauthorized or illegal acts  
21 by a third party including terrorism,  
22 sabotage, riot, vandalism, labor strikes  
23 or disputes disrupting operations, or a  
24 similar occurrence;

1                   “(III) an operational interrup-  
2                   tion, including electrical failure, unan-  
3                   ticipated delay in equipment or re-  
4                   placement part delivery, computer  
5                   hardware or software failures inhib-  
6                   iting response time, or a similar dis-  
7                   ruption;

8                   “(IV) governmental action, in-  
9                   cluding emergency orders or regula-  
10                  tions, judicial or law enforcement ac-  
11                  tion, or a similar directive;

12                  “(V) regularly scheduled mainte-  
13                  nance or updates to the systems of  
14                  the consumer reporting agency occur-  
15                  ring outside of normal business hours;  
16                  or

17                  “(VI) commercially reasonable  
18                  maintenance of, or repair to, the sys-  
19                  tems of the consumer reporting agen-  
20                  cy that is unexpected or unscheduled;  
21                  or

22                  “(C) if the consumer provides a correct  
23                  personal identification number or password,  
24                  fully remove an existing credit freeze from the  
25                  file of the consumer not later than 21 business

1 days after receiving the request by postal mail,  
2 toll-free telephone, or secure electronic means  
3 established by the consumer reporting agency.

4 “(2) NO FEE.—A consumer reporting agency  
5 may not charge a consumer a fee to place, tempo-  
6 rarily lift, or fully remove a credit freeze.

7 “(3) EXCLUSION FROM THIRD-PARTY LISTS.—  
8 During the period beginning on the date on which  
9 a consumer or a representative of the consumer re-  
10 quests to place a credit freeze and ending the date  
11 on which the consumer or representative requests to  
12 fully remove a credit freeze, a consumer reporting  
13 agency shall exclude the consumer from any list of  
14 consumers prepared by the consumer reporting  
15 agency and provided to any third party to offer cred-  
16 it or insurance to the consumer as part of a trans-  
17 action that was not initiated by the consumer, unless  
18 the consumer or that representative requests that  
19 the exclusion be rescinded before end of the period.”.

20 **SEC. 5. ADDITIONAL FREE CONSUMER REPORT.**

21 Section 612 of the Fair Credit Reporting Act (15  
22 U.S.C. 1681j) is amended—

23 (1) in subsection (f)(1), in the matter preceding  
24 subparagraph (A), by inserting “or subsection (h)”  
25 after “through (d)”; and

1 (2) by adding at the end the following:

2 “(h) FREE DISCLOSURES IN CONNECTION WITH  
3 CREDIT FREEZE.—In addition to the free annual disclo-  
4 sure required under subsection (a)(1)(A), each consumer  
5 reporting agency that maintains a file on a consumer who  
6 requests a credit freeze under section 605A(i) shall make  
7 all disclosures pursuant to section 609 once during any  
8 12-month period without charge to the consumer if the  
9 consumer makes a request under section 609.”.

10 **SEC. 6. REFUNDS.**

11 (a) DEFINITIONS.—In this section, the terms “con-  
12 sumer”, “consumer reporting agency”, and “credit freeze”  
13 have the meanings given those terms in section 603 of the  
14 Fair Credit Reporting Act (15 U.S.C. 1681a), as amended  
15 by section 2.

16 (b) REFUNDS.—With respect to any consumer who  
17 requested a credit freeze from a consumer reporting agen-  
18 cy during the period beginning on September 7, 2017, and  
19 ending on the day before the date of enactment of this  
20 Act, the consumer reporting agency—

21 (1) shall issue a refund to the consumer for any  
22 fees charged to the consumer relating to the request  
23 for a credit freeze; and

- 1           (2) may not impose a fee on the consumer to
- 2           temporarily lift or fully remove the credit freeze.

○