

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3997
OFFERED BY MRS. MALONEY OF NEW YORK**

Page 22, strike line 6 and all that follows through page 35, line 17 (and redesignate subsequent subsections and any cross reference to any such subsection accordingly).

Page 63, after line 3, add the following new section:

1 **SEC. 3. PROTECTION OF DATA THROUGH SECURITY**
2 **FREEZE.**

3 (a) IN GENERAL.—The Fair Credit Reporting Act
4 (15 U.S.C. 1681 et seq.) is amended by inserting after
5 section 605B (relating to block resulting from identity
6 theft) the following new section:

7 **“§ 605C. Protection of data through security freeze**

8 “(a) IN GENERAL.—

9 “(1) EMPLACEMENT.—A consumer may place a
10 security freeze on his or her credit report by making
11 a request to a consumer credit reporting agency in
12 writing or by telephone.

13 “(2) CONSUMER DISCLOSURE.—If a consumer
14 requests a security freeze, the consumer credit re-



1 reporting agency shall disclose to the consumer the
2 process of placing and removing the security freeze
3 and explain to the consumer the potential con-
4 sequences of the security freeze.

5 “(b) EFFECT OF SECURITY FREEZE.—

6 “(1) RELEASE OF INFORMATION BLOCKED.—If
7 a security freeze is in place on a consumer’s credit
8 report, a consumer reporting agency may not release
9 the credit report or information from the credit re-
10 port to a third party without prior express author-
11 ization from the consumer.

12 “(2) INFORMATION PROVIDED TO THIRD PAR-
13 TIES.—Paragraph (2) shall not be construed as pre-
14 venting a consumer credit reporting agency from ad-
15 vising a third party that a security freeze is in effect
16 with respect to the consumer’s credit report. If a
17 third party, in connection with an application for
18 credit, requests access to a consumer credit report
19 on which a security freeze is in place, the third party
20 may treat the application as incomplete.

21 “(c) REMOVAL; TEMPORARY SUSPENSION.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (4), a security freeze shall remain in place
24 until the consumer requests that the security freeze
25 be removed. A consumer may remove a security



1 freeze on his or her credit report by making a re-
2 quest to a consumer credit reporting agency in writ-
3 ing or by telephone.

4 “(2) CONDITIONS.—A consumer credit report-
5 ing agency may remove a security freeze placed on
6 a consumer’s credit report only—

7 “(A) upon the consumer’s request, pursu-
8 ant to paragraph (1); or

9 “(B) if the agency determines that the
10 consumer’s credit report was frozen due to a
11 material misrepresentation of fact by the con-
12 sumer.

13 “(3) NOTIFICATION TO CONSUMER.—If a con-
14 sumer credit reporting agency intends to remove a
15 freeze upon a consumer’s credit report pursuant to
16 paragraph (2)(B), the consumer credit reporting
17 agency shall notify the consumer in writing prior to
18 removing the freeze on the consumer’s credit report.

19 “(4) TEMPORARY SUSPENSION.—A consumer
20 may have a security freeze on his or her credit re-
21 port temporarily suspended by making a request to
22 a consumer credit reporting agency in writing or by
23 telephone and specifying beginning and ending dates
24 for the period during which the security freeze is not
25 to apply to that consumer’s credit report.



1 “(d) RESPONSE TIMES; NOTIFICATION OF OTHER
2 ENTITIES.—

3 “(1) IN GENERAL.—A consumer credit report-
4 ing agency shall—

5 “(A) place a security freeze on a con-
6 sumer’s credit report under subsection (a) no
7 later than 5 business days after receiving a re-
8 quest from the consumer under subsection
9 (a)(1); and

10 “(B) remove, or temporarily suspend, a se-
11 curity freeze within 3 business days after re-
12 ceiving a request for removal or temporary sus-
13 pension from the consumer under subsection
14 (c).

15 “(2) NOTIFICATION OF OTHER COVERED ENTI-
16 TIES.—If the consumer requests in writing or by
17 telephone that other covered entities be notified of
18 the request, the consumer reporting agency shall no-
19 tify all other consumer reporting agencies described
20 in section 603(p)(1) of the request within 3 days
21 after placing, removing, or temporarily suspending a
22 security freeze on the consumer’s credit report under
23 subsection (a), (c)(2)(A), or subsection (c)(4), re-
24 spectively.



1 “(3) IMPLEMENTATION BY OTHER COVERED
2 ENTITIES.—A consumer reporting agency that is no-
3 tified of a request under paragraph (2) to place, re-
4 move, or temporarily suspend a security freeze on a
5 consumer’s credit report shall place, remove, or tem-
6 porarily suspend the security freeze on that credit
7 report within 3 business days after receiving the no-
8 tification.

9 “(e) CONFIRMATION.—Whenever a consumer credit
10 reporting agency places, removes, or temporarily suspends
11 a security freeze on a consumer’s credit report at the re-
12 quest of that consumer under subsection (a) or (c), respec-
13 tively, the consumer reporting agency shall send a written
14 confirmation thereof to the consumer within 10 business
15 days after placing, removing, or temporarily suspending
16 the security freeze on the credit report. This subsection
17 does not apply to the placement, removal, or temporary
18 suspension of a security freeze by a consumer reporting
19 agency because of a notification received under subsection
20 (d)(2).

21 “(f) ID REQUIRED.—A consumer credit reporting
22 agency may not place, remove, or temporarily suspend a
23 security freeze on a consumer’s credit report at the con-
24 sumer’s request unless the consumer provides proper iden-



1 tification (within the meaning of section 610(a)(1)) and
2 the regulations thereunder.

3 “(g) EXCEPTIONS.—This section shall not apply to
4 the use of a consumer credit report by any of the fol-
5 lowing:

6 “(1) A person or entity, or a subsidiary, affil-
7 iate, or agent of that person or entity, or an as-
8 signee of a financial obligation owing by the con-
9 sumer to that person or entity, or a prospective as-
10 signee of a financial obligation owing by the con-
11 sumer to that person or entity in conjunction with
12 the proposed purchase of the financial obligation,
13 with which the consumer has or had prior to assign-
14 ment an account or contract, including a demand de-
15 posit account, or to whom the consumer issued a ne-
16 negotiable instrument, for the purposes of reviewing
17 the account or collecting the financial obligation
18 owing for the account, contract, or negotiable instru-
19 ment.

20 “(2) Any Federal, State or local agency, law en-
21 forcement agency, trial court, or private collection
22 agency acting pursuant to a court order, warrant, or
23 subpoena.



1 “(3) A child support agency or its agents or as-
2 signs acting pursuant to subtitle D of title IV of the
3 Social Security Act or similar State law.

4 “(4) The Department of Health and Human
5 Services, a similar State agency, or the agents or as-
6 signs of the Federal or State agency acting to inves-
7 tigate medicare or medicaid fraud.

8 “(5) The Internal Revenue Service or a State
9 or municipal taxing authority, or a State department
10 of motor vehicles, or any of the agents or assigns of
11 these Federal, State, or municipal agencies acting to
12 investigate or collect delinquent taxes or unpaid
13 court orders or to fulfill any of their other statutory
14 responsibilities.

15 “(6) The use of consumer credit information for
16 the purposes of prescreening as provided under this
17 title.

18 “(7) Any person or entity administering a cred-
19 it file monitoring subscription to which the consumer
20 has subscribed.

21 “(8) Any person or entity for the purpose of
22 providing a consumer with a copy of his or her cred-
23 it report or credit score upon the consumer’s re-
24 quest.

25 “(h) FEES.—



1 “(1) IN GENERAL.—

2 “(A) CERTAIN REASONABLE FEES AL-
3 LOWED.—Except as provided in paragraph (2),
4 a consumer credit reporting agency may charge
5 a reasonable fee, as determined by the Commis-
6 sion, for placing or temporarily suspending a
7 security freeze on a consumer’s credit report.

8 “(B) FACTORS TO BE CONSIDERED.— In
9 considering what is reasonable for the purpose
10 of subparagraph (A), the Commission shall con-
11 sider the prevailing fees permitted by State law
12 immediately before the date of the enactment of
13 the Financial Data Protection Act of 2006.

14 “(C) FEE FOR REMOVAL OF FREEZE PRO-
15 HIBITED.— No fee may be charged for removal
16 of a security freeze.

17 “(2) ID THEFT VICTIMS.—A consumer credit
18 reporting agency may not charge a fee for placing,
19 removing, or temporarily suspending a security
20 freeze on a consumer’s credit report if—

21 “(A) the consumer—

22 “(i) is a victim of identity theft; and

23 “(ii) has filed a police report, inves-
24 tigative report, or complaint made to a po-



1 lice department with respect to the theft;

2 or

3 “(B) the consumer is the recipient of a no-
4 tice that a breach of data security (as defined
5 in section 630) has occurred with respect to in-
6 formation of the consumer that is required by
7 law to be maintained securely and in con-
8 fidence.

9 “(i) LIMITATION ON INFORMATION CHANGES IN
10 FROZEN REPORTS.—

11 “(1) IN GENERAL.—If a security freeze is in
12 place on a consumer’s credit report, a consumer
13 credit reporting agency may not change any of the
14 following official information in that credit report
15 without sending a written confirmation of the
16 change to the consumer within 30 days after the
17 change is made:

18 “(A) Name.

19 “(B) Date of birth.

20 “(C) Social Security number.

21 “(D) Address.

22 “(2) CONFIRMATION.—Paragraph (1) shall not
23 be construed as requiring written confirmation for
24 technical modifications of a consumer’s official infor-
25 mation, including name and street abbreviations,



1 complete spellings, or transposition of numbers or
2 letters. In the case of an address change, the written
3 confirmation shall be sent to both the new address
4 and to the former address.

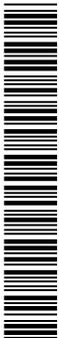
5 “(j) CERTAIN ENTITY EXEMPTIONS.—

6 “(1) AGGREGATORS AND OTHER AGENCIES.—

7 The provisions of subsections (a) through (h) shall
8 not apply to a consumer credit reporting agency that
9 acts only as a reseller of credit information by as-
10 sembling and merging information contained in the
11 data base of another consumer credit reporting
12 agency or multiple consumer credit reporting agen-
13 cies, and does not maintain a permanent data base
14 of credit information from which new consumer
15 credit reports are produced.

16 “(2) OTHER EXEMPTED ENTITIES.—The fol-
17 lowing entities are not required to place a security
18 freeze in a credit report:

19 “(A) A check services or fraud prevention
20 services company, which issues reports on inci-
21 dents of fraud or authorizations for the purpose
22 of approving or processing negotiable instru-
23 ments, electronic funds transfers, or similar
24 methods of payments.



1 “(B) A deposit account information service
2 company, which issues reports regarding ac-
3 count closures due to fraud, substantial over-
4 drafts, automated teller machine abuse, or simi-
5 lar negative information regarding a consumer,
6 to inquiring depository institutions or other fi-
7 nancial institutions for use only in reviewing a
8 consumer request for a deposit account at the
9 inquiring depository institution or other finan-
10 cial institution.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect at the end of the 6-month
13 period beginning on the date of the enactment of this Act
14 .

