

115TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

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”.

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

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

1 “(6) CREDIT FREEZE.—

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

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

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

22 “(ii) A person, or the subsidiary, affil-
23 iate, agent, subcontractor, or assignee of
24 the person, to whom access has been
25 granted pursuant to a request by the con-

1 consumer described under section
2 605A(i)(1)(B), for purposes of facilitating
3 the extension of credit or other permissible
4 use.

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

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

9 “(v) Any person for the sole purpose
10 of providing a credit monitoring or identity
11 theft protection service to which the con-
12 sumer has subscribed.

13 “(vi) Any person for the purpose of
14 providing a consumer with a copy of the
15 consumer report or credit score of the con-
16 sumer upon request by the consumer.

17 “(vii) Any person or entity for insur-
18 ance purposes, including use in setting or
19 adjusting a rate, adjusting a claim, or un-
20 derwriting.

21 “(viii) Any person acting pursuant to
22 an authorization from a consumer to use
23 their consumer report for employment pur-
24 poses.”.

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

2 Section 605A of the Fair Credit Reporting Act (15
3 U.S.C. 1681c-1) is amended—

4 (1) in subsection (a)—

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

7 (B) in paragraph (1)—

8 (i) in the paragraph heading, by strik-
9 ing “INITIAL ALERTS” and inserting “IN
10 GENERAL”;

11 (ii) in the matter preceding subpara-
12 graph (A), by inserting “or harmed by the
13 unauthorized disclosure of the financial or
14 personally identifiable information of the
15 consumer,” after “identity theft,”;

16 (iii) in subparagraph (A)—

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

19 (II) by striking “and” at the end;

20 (iv) in subparagraph (B)—

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

23 (II) by striking the period at the
24 end and inserting “; and”; and

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

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

8 (C) in paragraph (2)—

9 (i) in the matter preceding subpara-
10 graph (A), by inserting “1-year” before
11 “fraud alert”; and

12 (ii) in subparagraph (B), by striking
13 “any request described in subparagraph
14 (A)” and inserting “the consumer report-
15 ing agency includes the 1-year fraud alert
16 in the file of the consumer”;

17 (2) in subsection (b)—

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

20 (B) in paragraph (1)—

21 (i) in subparagraph (B)—

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

1 (II) by striking “and” at the end;

2 (ii) in subparagraph (C)—

3 (I) by striking “extended” and

4 inserting “7-year”; and

5 (II) by striking the period at the

6 end and inserting “; and”; and

7 (iii) by adding at the end the fol-

8 lowing:

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

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

19 “(A) disclose to the consumer that the con-
20 sumer may request a free copy of the file of the
21 consumer pursuant to section 612(d) during
22 each 12-month period beginning on the date on
23 which the 7-year fraud alert was included in the
24 file and ending on the date of the last day that

1 the 7-year fraud alert applies to the file of the
2 consumer; and”;

3 (3) in subsection (c)—

4 (A) by redesignating paragraphs (1), (2),
5 and (3), as subparagraphs (A), (B), and (C),
6 respectively, and adjusting the margins accord-
7 ingly;

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

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

12 and

13 (C) by adding at the end the following:

14 “(2) ACCESS TO FREE REPORTS.—If a con-
15 sumer reporting agency includes an active duty alert
16 in the file of an active duty military consumer, the
17 consumer reporting agency shall—

18 “(A) disclose to the active duty military
19 consumer that the active duty military con-
20 sumer may request a free copy of the file of the
21 active duty military consumer pursuant to sec-
22 tion 612(d), during each 12-month period be-
23 ginning on the date on which the activity duty
24 military alert is requested and ending on the
25 date of the last day that the active duty alert

1 applies to the file of the active duty military
2 consumer; and

3 “(B) not later than 3 business days after
4 the date on which the active duty military con-
5 sumer makes a request described in subpara-
6 graph (A), provide to the active duty military
7 consumer all disclosures required to be made
8 under section 609, without charge to the active
9 duty military consumer.”;

10 (4) by amending subsection (d) to read as fol-
11 lows:

12 “(d) PROCEDURES.—Each consumer reporting agen-
13 cy described in section 603(p) shall establish and make
14 available to the public on the Internet website of the con-
15 sumer reporting agency policies and procedures to comply
16 with this section, including policies and procedures—

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

20 “(2) that allow consumers to request 1-year
21 fraud alerts, 7-year fraud alerts, and active duty
22 alerts, as applicable, and to place, temporarily lift,
23 or fully remove a credit freeze in a simple and easy
24 manner; and

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

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

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

18 “(i) CREDIT FREEZES.—

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

1 1022.123 of title 12, Code of Federal Regulations,
2 or any successor thereto) shall—

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

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

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

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

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

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

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

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

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

24 “(III) an operational interrup-
25 tion, including electrical failure, unan-

1 anticipated delay in equipment or re-
2 placement part delivery, computer
3 hardware or software failures inhib-
4 iting response time, or a similar dis-
5 ruption;

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

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

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

20 “(C) if the consumer provides a correct
21 personal identification number or password,
22 fully remove an existing credit freeze from the
23 file of the consumer not later than 21 business
24 days after receiving the request by postal mail,

1 toll-free telephone, or secure electronic means
2 established by the consumer reporting agency.

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

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

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

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

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

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

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

9 **SEC. 6. REFUNDS.**

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

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

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

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