

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Montford, Chair
Senator Gainer, Vice Chair

MEETING DATE: Monday, February 12, 2018
TIME: 3:30—5:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Montford, Chair; Senator Gainer, Vice Chair; Senators Gibson, Hutson, Passidomo, Rodriguez, Stargel, and Young

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 1 | CS/SB 858 Community Affairs / Steube (Similar H 1013) | Time Observances; Creating the "Sunshine Protection Act"; directing the Legislature to submit a request to the Secretary of the United States Department of Transportation to redesignate portions of the state in the Central Time Zone into the Eastern Time Zone, etc. CA 01/23/2018 Fav/CS CM 02/12/2018 Fav/CS RC | Fav/CS Yeas 6 Nays 0 |
| 2 | SB 1302 Brandes (Similar H 953) | Consumer Report Security Freezes; Deleting the authorization for consumer reporting agencies to charge specified fees to consumers electing to place, remove, or temporarily lift a security freeze on their consumer reports; deleting the authorization for consumer reporting agencies to charge a specified fee to representatives of protected consumers electing to place a security freeze on such consumer's consumer reports, etc. BI 01/30/2018 Favorable CM 02/12/2018 Favorable RC | Favorable Yeas 8 Nays 0 |

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/CS/SB 858

INTRODUCER: Commerce and Tourism Committee; Community Affairs Committee; and Senator Steube and others

SUBJECT: Time Observances

DATE: February 12, 2018 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------|
| 1. | <u>Present</u> | <u>Yeatman</u> | <u>CA</u> | <u>Fav/CS</u> |
| 2. | <u>Harmsen</u> | <u>McKay</u> | <u>CM</u> | <u>Fav/CS</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 858 creates the Sunshine Protection Act (the Act), which provides that the Legislature intends to adopt daylight saving time as the year-round standard time if the United States Congress amends 15 U.S.C. s. 260a, relating to Daylight Saving Time (DST).

II. Present Situation:

History of Daylight Saving Time in the United States¹

Railroads in the United States and Canada instituted standard time in 1883, but standard time was not established in law until the Act of March 19, 1918, sometimes called the Standard Time Act or the Calder Act. The Standard Time Act also established DST. DST was repealed in 1919, but standard time in time zones remained in law. At that point, DST became a local matter. It was re-established nationally early in World War II, and was continuously observed from February 9, 1942 to September 30, 1945. After World War II, the use of DST varied among states and localities.

The Uniform Time Act of 1966 standardized the beginning and the end of daylight time in the U.S., but allowed for local exemptions from its observance. The Uniform Time Act provides that

¹ United States Naval Observatory, *Daylight Time*, available at http://aa.usno.navy.mil/faq/docs/daylight_time.php (last visited Feb. 12, 2018).

DST begins on the last Sunday in April and ends on the last Sunday in October, with the changeover to occur at 2 a.m. local time. Specifically, clocks are moved forward from 2 a.m. to 3 a.m. in spring, and they are moved back from 2 a.m. to 1 a.m. in fall.

States are not required to observe DST, but if a state chooses to observe DST, it must begin and end on the federally mandated dates. Individual states may exempt themselves from DST and observe standard time² year-round by passing a state law if:

- The state lies entirely within a single time zone, and the exemption applies statewide; or
- The state is divided by a time zone boundary, and the exemptions applies either statewide or to the entire part of the state on one side of the time zone boundary.

Currently, Hawaii, most of Arizona,³ several United States commonwealths and territories,⁴ and various Native American nations⁵ are exempt from DST.

The U.S. Department of Transportation states that DST saves energy, saves lives, prevents traffic injuries, and reduces crime.⁶

Currently, Florida law does not address DST. However, section 1.02, F.S., states that with regard to any act by an officer or department in Florida, “it shall be understood and intended that the...time shall be the United States standard time of the zone within which the act is to be performed...”

Benefits and Drawbacks of Daylight Savings Time

An extension of DST by 4 weeks in 2007 allowed researchers to study the benefits of DST. One study found that robberies decreased during DST by seven percent, which researchers estimated translated into \$59 million per year in avoided social costs.⁷ The effect of DST on energy use is more controversial. One study, based on Indiana’s residential utility use, found that DST resulted in a one percent overall increase in electricity demand.⁸ Conversely, a U.S. Department of Energy (DOE) study found a 0.5 percent, per day decrease in electricity use during DST. The DOE study also found that “some southern portions of the United States exhibited slightly

² Standard time is the official time in the United States, as determined by two federal agencies: the National Institute of Standards and Technology (NIST), an agency within the U.S. Department of Commerce; and its military counterpart, the United States Naval Observatory (USNO). The clocks run by these services are kept synchronized with each other as well as with those of other international timekeeping organizations. See <http://www.usno.navy.mil/USNO/time> and <https://www.nist.gov/pml/time-and-frequency-division> for more information (last visited Feb. 12, 2018).

³ Native American nations within Arizona have the right to use or opt out of DST. The Navajo Nation, which includes land in Arizona, New Mexico, and Utah, has chosen to use DST.

⁴ The commonwealths of the Northern Mariana Islands and Puerto Rico, and the territories of American Samoa, Guam, and the U.S. Virgin Islands do not observe DST.

⁵ The Navajo Nation observes DST, but the Hopi Nation does not.

⁶ U.S. Department of Transportation, *Purpose of Daylight Saving Time*, available at <https://www.transportation.gov/regulations/daylight-saving-time> (last visited Feb. 12, 2018).

⁷ Jennifer Doleac and Nicholas Sanders, The Brookings Institution, *Fighting Crime With Daylight Savings Time* (Oct. 29, 2015), available at <https://www.brookings.edu/blog/brookings-now/2015/10/29/fighting-crime-with-daylight-saving-time/> (last visited Feb. 12, 2018).

⁸ Matthew Kotchen and Laura Grant, National Bureau of Economic Research, *Does Daylight Saving Time Save Energy? Evidence From a Natural Experiment in Indiana* (Oct. 2008), available at <http://www.nber.org/papers/w14429.pdf> (last visited Feb. 12, 2018).

smaller impacts of extended DST on energy savings compared to the northern regions due to a small, offsetting increase in household air conditioning usage.”⁹

III. Effect of Proposed Changes:

Section 1 provides that the Legislature intends to adopt DST as the year-round standard time in the entire state of Florida and all of its political subdivisions if the United States Congress amends 15 U.S.C. s. 260a.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be indeterminate costs to reprogram computers and other electronic devices to eliminate the automatic changing of the clocks. However, these costs are likely to be insignificant.

C. Government Sector Impact:

There may be indeterminate costs to reprogram computers and other electronic devices to eliminate the automatic changing of the clocks. However, these costs are likely to be insignificant.

VI. Technical Deficiencies:

None.

⁹ U.S. Department of Energy, *Impact of Extended Daylight Saving Time on National Energy Consumption* (Oct. 2008), available at https://energy.gov/sites/prod/files/2015/05/f22/epact_sec_110_edst_report_to_congress_2008.pdf (last visited Feb. 12, 2018).

VII. Related Issues:

The bill expresses a future intent, but does not require that Florida switch to DST year-round upon congressional amendment of 15 U.S.C. s. 260a. The Legislature cannot bind a future Legislature by effect of law.¹⁰ Therefore, the bill is a nonbinding declaration of legislative intent.

VIII. Statutes Affected:

This bill creates one unnumbered section of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Commerce and Tourism Committee on February 12, 2018:

- Removes the portion of the bill that requires the Florida Legislature to request to redesignate the portions of Florida that currently lie within the Central Time Zone to Eastern Time Zone.

CS by Community Affairs Committee on January 23, 2018:

- Provides that it is the intent of the Legislature to adopt DST as the year-round standard time in Florida if the United States Congress amends 15 U.S.C. s. 260a.
- Provides that the Florida Legislature shall submit a request to the Secretary of the United States Department of Transportation to initiate rulemaking to redesignate the portions of Florida that currently lie within the Central Time Zone to the Eastern Time Zone.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ *Neu v. Miami Herald Pub. Co.*, 462 So. 2d 821, 824 (Fla. 1985).



498292

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 02/12/2018 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Commerce and Tourism (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 27 - 36.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 2 - 10

and insert:

An act relating to daylight saving time; providing a short title; providing legislative intent regarding



11 the State of Florida and its political subdivisions
12 observing daylight saving time year-round under
13 certain conditions;

By the Committee on Community Affairs; and Senators Steube,
Mayfield, and Taddeo

578-02387-18

2018858c1

1 A bill to be entitled
2 An act relating to time observances; providing a short
3 title; providing legislative intent regarding the
4 State of Florida and its political subdivisions
5 observing daylight saving time year-round under
6 certain conditions; directing the Legislature to
7 submit a request to the Secretary of the United States
8 Department of Transportation to redesignate portions
9 of the state in the Central Time Zone into the Eastern
10 Time Zone; specifying requirements for the request;
11 providing an effective date.

12
13 WHEREAS, the State of Florida is known as the "Sunshine
14 State," and

15 WHEREAS, as the "Sunshine State," Florida should be kept
16 sunny year-round, NOW, THEREFORE,

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. (1) This section may be cited as the "Sunshine
21 Protection Act."

22 (2) If the United States Congress amends 15 U.S.C. s. 260a
23 to authorize states to observe daylight saving time year-round,
24 it is the intent of the Legislature that daylight saving time
25 shall be the year-round standard time of the entire state and
26 all of its political subdivisions.

27 Section 2. As soon as practicable after this act becomes a
28 law, the Legislature of the State of Florida shall submit a
29 request to the Secretary of the United States Department of

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 Transportation to initiate rulemaking to redesignate those
31 portions of Florida that currently lie within the Central Time
32 Zone to the Eastern Time Zone. The request must include a formal
33 certification, contact information, and any supporting
34 documentation demonstrating that moving the entire state of
35 Florida into one time zone would serve the convenience of
36 commerce.

37 Section 3. This act shall take effect July 1, 2018.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Pre-K - 12 Education
Children, Families, and Elder Affairs
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

January 23, 2018

The Honorable Bill Montford
Florida Senate
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Montford,

I am writing this letter because my bill, SB 858 – Daylight Saving Time, has been referred to the Senate Commerce and Tourism Committee. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- 6230 University Parkway, Suite 202, Sarasota, Florida 34240 (941) 342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1302

INTRODUCER: Senator Brandes

SUBJECT: Consumer Report Security Freezes

DATE: February 9, 2018

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Johnson</u> | <u>Knudson</u> | <u>BI</u> | Favorable |
| 2. | <u>Harmsen</u> | <u>McKay</u> | <u>CM</u> | Favorable |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 1302 prohibits consumer reporting agencies (CRAs) from charging fees for placing, removing, or temporarily lifting a security freeze on a consumer report. A security freeze prevents a CRA from releasing the consumer report, credit score, or any information contained within the consumer report to a third party without the consumer's express authorization. Currently, Florida law permits a CRA to charge a consumer up to \$10 to institute a credit freeze.

II. Present Situation:

Data Breaches and Identity Theft

In recent years, data breaches¹ have increased in frequency, scale, sophistication, and severity of impact; as a result, identity theft has been rampant. In late 2013, Target experienced a data breach that provided cybercriminals with access to 41 million customer payment card accounts² (customer name, credit or debit card number, and the card's expiration date) and contact information for more than 60 million Target customers.³ In 2017, Equifax, one of the three major CRAs in the United States, reported that the sensitive personal information of an estimated 143

¹ A data breach occurs when a cybercriminal successfully infiltrates a data source and extracts sensitive information. This can be done physically by accessing a computer or network to steal local files, or by bypassing network security remotely. See TRENDMICRO, *Data Breaches 101* (Oct. 23, 2015) available at

<https://www.trendmicro.com/vinfo/us/security/news/cyber-attacks/data-breach-101> (last visited Feb. 9, 2018).

² *Target to pay \$18.5M for 2013 data breach that affected 41 million consumers*, (May 23, 2017), available at <https://www.usatoday.com/story/money/2017/05/23/target-pay-185m-2013-data-breach-affected-consumers/102063932/> (last visited Feb. 9, 2018).

³ Federal Trade Commission, *Are you affected by the recent Target hack?* <https://www.consumer.ftc.gov/blog/2013/12/are-you-affected-recent-target-hack> (last visited Feb. 9, 2018).

million American consumers⁴ was disclosed in a data breach earlier that year. The cybercriminals accessed the names, Social Security numbers, birth dates, and addresses and, in some instances, consumers' driver's license numbers. They also accessed credit card numbers of about 209,000 consumers and dispute documents with personal identifying information of about 182,000 consumers.⁵

In response to identity theft, or as a precautionary action, consumers may place a security freeze on their credit reports. Such a freeze can help stop identity thieves from opening new accounts under a stolen identity by preventing new creditors from accessing a credit file.⁶

Consumer Reports and Consumer Reporting Agencies

Consumer reports include any written, oral, or other communication of any information by a CRA on a consumer's credit worthiness, credit standing, credit capacity, general reputation, personal characteristics, or mode of living.⁷ Consumer reports generally list a consumer's name, address, Social Security number, credit cards, loans, debts, and history of timely bill payment.⁸ Information contained in such reports is used as a factor in establishing a consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes; employment purposes; and other purposes authorized under federal law.⁹

CRAs assemble or evaluate consumer credit information or other information on consumers and furnish consumer reports to third parties.¹⁰ CRAs may provide consumer credit reports and credit scores to lenders, retail stores, employers, residential real estate management companies, payment processors, retail stores, debt buyers and collectors, insurance companies, communications and utility companies.¹¹ The three largest consumer-reporting agencies are Equifax, Experian, and TransUnion.¹²

Federal Fair Credit Reporting Act (FCRA)

The federal Fair Credit Reporting Act (FCRA) governs the collection and use of consumer report information and establishes the framework for the credit reporting system in the United States.¹³ The FCRA prevents the misuse of sensitive consumer information by limiting access to those with a legitimate need for the information; improving the accuracy and integrity of consumer

⁴ Equifax, *Cybersecurity Incident and Important Consumer Information*, available at <https://www.equifaxsecurity2017.com/frequently-asked-questions/> (last visited Feb. 9, 2018). Subsequently, on October 2, 2017, Equifax announced that approximately 2.5 million additional U.S. consumers were potentially impacted.

⁵ Federal Trade Commission, *the Equifax Data Breach: What to Do*, <https://www.consumer.ftc.gov/blog/2017/09/equifax-data-breach-what-do> (last visited Feb. 9, 2018).

⁶ Consumer Finance Protection Bureau, *Credit Reports and Scores*, available at <https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/key-terms/#security-freeze> (last visited Feb. 9, 2018.)

⁷ See 15 U.S.C. 1681a(d).

⁸ See 15 U.S.C. 1681c.

⁹ See 15 U.S.C. 1681b.

¹⁰ See 15 U.S.C. 1681a(f).

¹¹ Consumer Financial Protection Bureau (CFPB), *List of Consumer Reporting Companies*, pgs. 4-5 (2016). http://files.consumerfinance.gov/f/201604_cfpb_list-of-consumer-reporting-companies.pdf (last visited Feb. 9, 2018).

¹² See note, CFPB 10 at pg. 8.

¹³ 15 U.S.C. s. 1681 *et seq.*

reports; and promoting the efficiency of the nation's banking and consumer credit systems.¹⁴ The FCRA regulates the practices of CRAs (e.g., Equifax, Experian, TransUnion, etc.) that collect and compile consumer information into consumer reports, which are often referred to as credit reports.¹⁵ Both the Federal Trade Commission and the Consumer Financial Protection Bureau provide education regarding, and enforcement of, the FCRA.¹⁶

In 2003, the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the FCRA, to add a number of provisions to help consumers and businesses combat identity theft; mitigate the damage when identity theft occurs; and establish a national fraud alert system.¹⁷ The FACT Act allows a consumer or the consumer's representative to assert a good-faith suspicion to a CRA that he or she has been or is about to become the victim of identity theft.¹⁸ The CRA must then, at no charge to the consumer, place an initial fraud alert on the consumer's credit report for at least 90 days.¹⁹ A consumer or the consumer's representative can also file for an extended fraud alert that lasts up to 7 years if an identity theft report is submitted to the CRA.²⁰ While fraud alerts help make a consumer more aware of activity related to his or her consumer report, they do not prevent a potential creditor from obtaining the consumer report and may not prevent the opening of new credit accounts.²¹

Florida

Identity Theft

The Florida Department of Agriculture and Consumer Services' Division of Consumer Services (division) regulates 18 specific industries and serves as a clearinghouse for consumer complaints regarding unregulated issues. The division also focuses on consumer education to protect consumers from unfair or unsafe business practices.²² The division and the Florida Attorney General's Office provide consumer resources to help prevent and to respond to identity theft in Florida.²³

¹⁴ Federal Trade Commission, *40 Years of Experience with the Fair Credit Reporting Act: An FTC Staff Report with Summary of Interpretations*, 1 (July 2011), available at <http://www.ftc.gov/sites/default/files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcra-report.pdf>. (last visited Feb. 9, 2018)

¹⁵ *Id.*

¹⁶ See 15 U.S.C. §1681a (v); Federal Trade Commission, *Fair Credit Reporting Act*, <https://www.ftc.gov/enforcement/statutes/fair-credit-reporting-act> (last visited Feb. 8, 2018). Although the Dodd-Frank Act transferred most of the rulemaking responsibilities under the FCRA to the Consumer Financial Protection Bureau, enforcement authority was retained entirely by the FTC.

¹⁷ P.L. 108-159, H.R. 2622, 108th Cong. (Dec. 4, 2003), available at <https://www.gpo.gov/fdsys/pkg/STATUTE-117/pdf/STATUTE-117-Pg1952.pdf>. (last visited Feb. 9, 2018).

¹⁸ 15 U.S.C. s. 1681c-1(a)(1).

¹⁹ *Id.*

²⁰ 15 U.S.C. s. 1681c-1(b).

²¹ 15 U.S.C. ss. 1681c-1 and 1681m(e).

²² Florida Department of Agriculture and Consumer Services, *Division of Consumer Services*, <https://www.freshfromflorida.com/Divisions-Offices/Consumer-Services> (last visited Feb. 9, 2018). See also, Florida Department of Agriculture and Consumer Services, *Consumer Resources*, <https://www.freshfromflorida.com/Consumer-Resources/> (last visited Feb. 9, 2018).

²³ *Id.* See also, Florida Office of the Attorney General, *Identity Theft*, <http://myfloridalegal.com/identitytheft> (last visited Feb. 9, 2018).

In Florida, cases of identity theft can be prosecuted under s. 817.568, F.S. Identity theft is punishable by a third degree felony, up to a first degree felony, depending on the presence of aggravating circumstances, including the number of victims harmed and the pecuniary value amassed by the perpetrator.²⁴

Florida Consumer Report Security Freeze Law

In 2006, Florida enacted legislation to allow a consumer to freeze access to his or her consumer report to prevent anyone from trying to open a new account or new credit under his or her name.²⁵ The consumer can place the security freeze by written request via certified mail to a CRA; the consumer must send a separate request to each CRA.²⁶ With some exceptions, a security freeze prohibits the CRA from releasing the consumer report, credit score, or any information contained within the consumer report to a third party without the consumer's express authorization.²⁷ Additionally, while a security freeze is in effect, a CRA may not change a consumer's name, address, date of birth, or social security number in a consumer report without first sending written confirmation of the change to the consumer.²⁸

A CRA must place a security freeze within 5 business days after receiving a request and must provide the consumer with a unique personal identification number (PIN) or password for the consumer to use to authorize removal of a security freeze.²⁹ A CRA may charge a fee up to \$10 to institute, temporarily lift, or remove a security freeze, or to reissue a lost PIN or password.³⁰ However, a CRA may neither charge a consumer 65 years or older for the institution or removal of a security freeze, nor charge a victim of identity theft *any fee*.³¹

2014 Keeping I.D. Safe (KIDS) Act

Florida's 2006 law did not contain a mechanism for freezing the credit for individuals who do not have an existing credit report. To address this issue, the Florida Legislature passed the Keeping I.D. Safe (KIDS) Act in 2014.³² The KIDS Act allows a third party to place a security freeze on a record created to identify a protected consumer (i.e., a person younger than 16 years of age or a person represented by a guardian or other advocate) by submitting a request and sufficient proof of authority and identification to the CRA.³³ A CRA has up to 30 days after it

²⁴ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine; a second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine; a first degree felony is punishable by up to 30 years and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

²⁵ Ch. 2006-124, Laws of Fla.

²⁶ Section 501.005(2), F.S.

²⁷ Section 501.005(1), (12), and (15), F.S. Subsection 501.005(12), F.S., allows for the release of information otherwise protected by a security freeze to the existing creditors of the consumer, state agencies acting within their lawful investigatory or regulatory authority, law enforcement agencies, persons maintaining credit monitoring services or who provide consumer reports to consumers on their request, persons designated by court order, for credit prescreening or insurance underwriting purposes, and to certain other specified persons. Subsection 501.005(15), F.S., allows for the release of information otherwise protected by a security freeze to a check services company, a deposit account information service company, a consumer reporting agency that acts only as a reseller of credit information, and a fraud prevention services company.

²⁸ Section 501.005(14), F.S.

²⁹ Section 501.005(3), (4), F.S.

³⁰ Section 501.005(13)(a), (c), F.S.

³¹ Section 501.005(13)(b), F.S.

³² Ch. 2014-66, Laws of Fla.

³³ Section 501.0051, F.S.

confirms the authenticity of the security freeze request to place the freeze.³⁴ Otherwise, the KIDS Act credit freeze operates in the same manner as the credit freeze provided for in s. 501.005, F.S.

Like the traditional security freeze, the CRA must provide a unique PIN to the protected consumer's representative, and may charge a fee of up to \$10 to place or remove the freeze, or to reissue a lost PIN.³⁵ However, a representative of a protected consumer who is a victim of identity theft is exempt from such fees.³⁶

State Survey of Laws Relating to Consumer Report Security Freezes

Most states allow CRAs to charge fees for placing a security freeze, which generally range from \$2 to \$10.³⁷ Among the states that do not allow such fees, the majority allow some combination of fees for temporarily lifting a security freeze, removing a security freeze, or creating a record to identify a protected consumer who does not have an existing consumer report. Indiana and South Carolina prohibit all fees for placing, temporarily lifting, or removing security freezes on an existing consumer report and prohibit fees associated with creating a record to identify a protected consumer.³⁸

III. Effect of Proposed Changes:

Section 1 amends s. 501.005, F.S., to prohibit CRAs from charging a consumer fee for the following actions:

- Placing a security freeze on a consumer report;
- Temporarily lifting a security freeze on a consumer report; and
- Removing a security freeze on a consumer report.

The CRA may charge a reasonable fee, not to exceed \$10, to replace a consumer's original personal identification number or password. This charge applies to victims of identity theft, who are not subject to such a fee under current law.

Section 2 amends s. 501.0051, F.S., to similarly prohibit such fees when a representative places, removes, or temporarily lifts a security freeze on a protected consumer's consumer report.

Section 3 provides an effective date of July 1, 2018.

³⁴ Section 501.0051(4), (5), F.S.

³⁵ Section 501.0051(9)(a) and (b), F.S.

³⁶ Section 501.0051(9)(c), F.S.

³⁷ Equifax, *What are the security freeze fees in my state?*, <https://help.equifax.com/s/article/What-are-the-security-freeze-fees-in-my-state> (last visited Feb. 9, 2018); Experian, *Security Freeze*, <https://www.experian.com/blogs/ask-experian/credit-education/preventing-fraud/security-freeze/> (last visited Jan. 4, 2018); TransUnion, *Credit Freeze Information by State*, <https://www.transunion.com/credit-freeze/credit-freeze-information-by-state> (last visited Feb. 9, 2018). See also, National Conference of State Legislatures, *Consumer Report Security Freeze State Laws* (Sept. 1, 2017), available at <http://www.ncsl.org/research/financial-services-and-commerce/consumer-report-security-freeze-state-statutes.aspx> (last visited Feb. 9, 2018).

³⁸ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The elimination of the security freeze fees could potentially increase the utilization of security freezes and reduce identity theft. Consumers and their representatives will no longer pay fees of up to \$10 related to placing, removing, or temporarily lifting a security freeze on a consumer report.

Consumer reporting agencies will no longer collect such fees.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 501.005 and 501.0051 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Brandes

24-01395A-18

20181302__

A bill to be entitled

An act relating to consumer report security freezes; amending s. 501.005, F.S.; deleting the authorization for consumer reporting agencies to charge specified fees to consumers electing to place, remove, or temporarily lift a security freeze on their consumer reports; amending s. 501.0051, F.S.; deleting the authorization for consumer reporting agencies to charge a specified fee to representatives of protected consumers electing to place a security freeze on such consumer's consumer reports; deleting the authorization for consumer reporting agencies to charge a specified fee to protected consumers or representatives of protected consumers who elect to remove a security freeze on such consumer's consumer reports; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2), paragraph (d) of subsection (5), paragraph (c) of subsection (11), subsection (13), and paragraph (c) of subsection (17) of section 501.005, Florida Statutes, are amended to read:

501.005 Consumer report security freeze.—

(2) A consumer may place a security freeze on his or her consumer report by:

~~(c) Paying a fee authorized under this section.~~

(5) A consumer may allow his or her consumer report to be accessed for a designated period of time while a security freeze

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is in effect by contacting the consumer reporting agency and requesting that the freeze be temporarily lifted. The consumer must provide the following information to the consumer reporting agency as part of the request:

~~(d) Payment of a fee authorized by this section.~~

(11) A security freeze shall remain in place until the consumer requests that it be removed. A consumer reporting agency shall remove a security freeze within 3 business days after receiving a request for removal from the consumer, who, upon making the request for removal, must provide the following:

~~(e) Payment of a fee authorized by this section.~~

(13) (a) A consumer reporting agency may not charge a reasonable fee, ~~not to exceed \$10,~~ to a consumer who elects to place, remove, or temporarily lift a security freeze on his or her consumer report.

~~(b) A consumer reporting agency shall not charge any fee:~~

~~1. To a consumer 65 years of age or older for the initial placement or removal of a security freeze; or~~
~~2. To a victim of identity theft who has submitted, at the time the security freeze is requested, a copy of a valid investigative or incident report or complaint with a law enforcement agency about the unlawful use of the victim's identifying information by another person.~~

(b)-(e) A consumer reporting agency may charge a reasonable fee, not to exceed \$10, if the consumer fails to retain the original personal identification number or password provided by the consumer reporting agency and the agency must reissue the personal identification number or password or provide a new personal identification number or password to the consumer.

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59 (17) Any written disclosure by a consumer reporting agency,
 60 pursuant to 15 U.S.C. s. 1681g, to any consumer residing in this
 61 state shall include a written summary of all rights the consumer
 62 has under this section, and, in the case of a consumer reporting
 63 agency which compiles and maintains consumer reports on a
 64 nationwide basis, a toll-free telephone number which the
 65 consumer can use to communicate with the consumer reporting
 66 agency. The information set forth in paragraph (b) of the
 67 written summary of rights must be in at least 12-point boldface
 68 type. The written summary of rights required under this section
 69 is sufficient if it is substantially in the following form:

70 (c) When you place a security freeze on your consumer
 71 report, you will be provided a personal identification number or
 72 password to use if you choose to remove the freeze on your
 73 consumer report or authorize the release of your consumer report
 74 for a designated period of time after the security freeze is in
 75 place. To provide that authorization, you must contact the
 76 consumer reporting agency and provide all of the following:

- 77 1. The personal identification number or password.
- 78 2. Proper identification to verify your identity.
- 79 3. Information specifying the period of time for which the
 80 report shall be made available.

81 ~~4. Payment of a fee authorized by this section.~~

82 Section 2. Subsection (2), paragraph (a) of subsection (7),
 83 subsection (9), and paragraph (c) of subsection (14) of section
 84 501.0051, Florida Statutes, are amended to read:

85 501.0051 Protected consumer report security freeze.—

86 (2) A representative may place a security freeze on a
 87 protected consumer's consumer report by:

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88 (a) Submitting a request to a consumer reporting agency in
 89 the manner prescribed by that agency; and

90 (b) Providing the agency with sufficient proof of authority
 91 and sufficient proof of identification of the representative;
 92 ~~and~~

93 ~~(c) Paying the agency a fee as authorized under this~~
 94 ~~section.~~

95 (7) A consumer reporting agency shall remove a security
 96 freeze from a protected consumer's consumer report or record
 97 only under either of the following circumstances:

98 (a) Upon the request of a representative or a protected
 99 consumer. A consumer reporting agency shall remove a security
 100 freeze within 30 days after receiving a request for removal from
 101 a protected consumer or his or her representative.

102 1. A representative submitting a request for removal must
 103 provide all of the following:

104 a. Sufficient proof of identification of the representative
 105 and sufficient proof of authority as determined by the consumer
 106 reporting agency.

107 b. The unique personal identifier provided by the consumer
 108 reporting agency pursuant to subsection (5).

109 ~~c. A fee as authorized under this section.~~

110 2. A protected consumer submitting a request for removal
 111 must provide both ~~all~~ of the following:

112 a. Sufficient proof of identification of the protected
 113 consumer as determined by the consumer reporting agency.

114 b. Documentation that the sufficient proof of authority of
 115 the protected consumer's representative to act on behalf of the
 116 protected consumer is no longer valid.

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117 ~~e. A fee as authorized under this section.~~
 118 (9) (a) A consumer reporting agency may not charge any a
 119 reasonable fee, ~~not to exceed \$10,~~ to place or remove a security
 120 freeze.
 121 (b) A consumer reporting agency may ~~also~~ charge a
 122 reasonable fee, not to exceed \$10, if the representative fails
 123 to retain the original unique personal identifier provided by
 124 the consumer reporting agency and the agency must reissue the
 125 unique personal identifier or provide a new unique personal
 126 identifier to the representative.
 127 ~~(c) A consumer reporting agency may not charge a fee under~~
 128 ~~this section to the representative of a protected consumer who~~
 129 ~~is a victim of identity theft if the representative submits, at~~
 130 ~~the time the security freeze is requested, a copy of a valid~~
 131 ~~investigative report, an incident report, or a complaint with a~~
 132 ~~law enforcement agency about the unlawful use of the protected~~
 133 ~~consumer's identifying information by another person.~~
 134 (14) A written disclosure by a consumer reporting agency,
 135 pursuant to 15 U.S.C. s. 1681g, to a representative and
 136 protected consumer residing in this state must include a written
 137 summary of all rights that the representative and protected
 138 consumer have under this section and, in the case of a consumer
 139 reporting agency that compiles and maintains records on a
 140 nationwide basis, a toll-free telephone number that the
 141 representative can use to communicate with the consumer
 142 reporting agency. The information provided in paragraph (b) must
 143 be in at least 12-point boldfaced type. The written summary of
 144 rights required under this section is sufficient if it is
 145 substantially in the following form:

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146 (c) To remove the security freeze on the protected
 147 consumer's record or report, you must contact the consumer
 148 reporting agency and provide all of the following:
 149 1. Proof of identification as required by the consumer
 150 reporting agency.
 151 2. Proof of authority over the protected consumer as
 152 required by the consumer reporting agency.
 153 3. The unique personal identifier provided by the consumer
 154 reporting agency.
 155 ~~4. Payment of a fee.~~
 156 Section 3. This act shall take effect July 1, 2018.

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The Florida Senate

Committee Agenda Request

To: Senator Bill Montford
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 30, 2018

I respectfully request that **Senate Bill #1302**, relating to **Consumer Report Security Freezes**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-12-18
Meeting Date

SB 1302
Bill Number (if applicable)

Topic Consumer Report Security Freeze

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director of Advocacy

Address 200 W College Ave, Suite 304
Street

Phone 850 228-6387

Jalapa-harsee FL 32301
City State Zip

Email dobarker@aarp.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AARP Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/12/18
Meeting Date

1302
Bill Number (if applicable)

Topic Consumer Report Security Freezes

Amendment Barcode (if applicable)

Name JARED ROSS

Job Title Sr. VP, Governmental Affairs

Address 3692 Coolidge Ct.

Phone (850) 322-6956

Tallahassee FL 32311
City State Zip

Email jared.ross@bcu.coop

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Credit Union Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/12/18

Meeting Date

1302

Bill Number (if applicable)

Topic Consumer Report Security Freeze

Amendment Barcode (if applicable)

Name Kimberly Renspie

Job Title Deputy Legislative Affairs Director

Address 200 E Gaines St.

Phone 850-413-5939

Tallahassee FL 32399

Email kimberly.renspie@myfloridacfo.com

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing CFO Patronis

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/12/18

Meeting Date

1302

Bill Number (if applicable)

Topic Credit Freeze

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Dir. Legislative Affairs

Address PL 10 The Capitol

Street

Phone 850 617 7701

Tallahassee FL 32399

City

State

Zip

Email grace.lovett@freshfromflorida.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FDACS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: EL 110
Caption: Commerce Committee

Case No.:
Judge:

Type:

Started: 2/12/2018 3:34:39 PM

Ends: 2/12/2018 3:51:31 PM

Length: 00:16:53

3:34:58 PM Roll call -Quorum present
3:36:14 PM SB 1302 Consumer Report Security Freezes by Senator Brandes
3:36:47 PM Senator Brandes discusses bill
3:36:55 PM Questions-none
3:37:38 PM All waive in support
3:37:45 PM Senator Young
3:38:06 PM Senator Brandes waives close
3:38:28 PM Roll call SB 1302-Favorable
3:38:51 PM Short pause-awaiting Senator Steube
3:38:56 PM Recording Paused
3:47:52 PM Recording Resumed
3:48:40 PM SB 858 -Senator Steube-Observances
3:48:58 PM Amendment 498292 - favorable
3:49:08 PM Back on bill as amended
3:49:34 PM Senator Steube discusses the bill in more detail
3:50:08 PM Questions-Senator Passidomo
3:50:20 PM No appearance forms
3:50:28 PM No debate
3:50:43 PM Senator Steube waives close
3:51:02 PM CS/CS/SSB 858-Favorable
3:51:24 PM Adjourn