

Journal of the Senate

WEDNESDAY, JANUARY 24, 2018

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Governor's Veto Sustained

Senate Bill entitled:

S. 22. An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age and older.

Was taken up.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the negative on a roll call required by the Vermont Constitution, Yeas 0, Nays 30. (the necessary *override* two-thirds vote *not* having been attained).

Roll Call

Those Senators who voted in the affirmative were: None.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Bill Passed

S. 101.

Senate bill entitled:

An act relating to the conduct of forestry operations.

Was taken up

Thereupon, the bill was read the third time and passed on a roll call, Yeas 30, Nays 0.

Senator MacDonald having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Bill Amended; Bill Passed**S. 291.**

Senate bill entitled:

An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pearson and White moved to amend the bill by in Sec. 4 (repeals) by striking out the section in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. REPEAL

32 V.S.A. § 1228 (appraisers for unified towns and gores of Essex County) is repealed.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered**S. 207.**

Senator Soucy, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to eliminating fees for placing or removing a credit freeze.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

(a) A credit reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer all

information available to users at the time of the request pertaining to the consumer, including:

(1) any credit score or predictor relating to the consumer, in a form and manner that complies with such comments or guidelines as may be issued by the Federal Trade Commission;

(2) the names of users requesting information pertaining to the consumer during the prior 12-month period and the date of each request; and

(3) a clear and concise explanation of the information.

(b) As frequently as new telephone directories are published, the credit reporting agency shall cause to be listed its name and number in each telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

(c) Any time a credit reporting agency is required to make a written disclosure to consumers pursuant to 15 U.S.C. § 1681g, it shall disclose, in at least 12 point type, and in bold type as indicated, the following notice:

“NOTICE TO VERMONT CONSUMERS

(1) Under Vermont law, you are allowed to receive one free copy of your credit report every 12 months from each credit reporting agency. If you would like to obtain your free credit report from [INSERT NAME OF COMPANY], you should contact us by [[writing to the following address: [INSERT ADDRESS FOR OBTAINING FREE CREDIT REPORT]] or [calling the following number: [INSERT TELEPHONE NUMBER FOR OBTAINING FREE CREDIT REPORT]], or both].

(2) Under Vermont law, no one may access your credit report without your permission except under the following limited circumstances:

(A) in response to a court order;

(B) for direct mail offers of credit;

(C) if you have given ongoing permission and you have an existing relationship with the person requesting a copy of your credit report;

(D) ~~where~~ when the request for a credit report is related to an education loan made, guaranteed, or serviced by the Vermont Student Assistance Corporation;

(E) ~~where~~ when the request for a credit report is by the Office of Child Support ~~Services~~ when investigating a child support case;

(F) ~~where~~ when the request for a credit report is related to a credit transaction entered into prior to January 1, 1993; ~~and or~~

(G) ~~where~~ when the request for a credit report is by the Vermont ~~State Tax~~ Department of Taxes and is used for the purpose of collecting or investigating delinquent taxes.

(3) If you believe a law regulating consumer credit reporting has been violated, you may file a complaint with the Vermont Attorney General's Consumer Assistance Program, 104 Morrill Hall, University of Vermont, Burlington, Vermont 05405.

Vermont Consumers Have the Right to Obtain a Security Freeze

You have a right to place a "security freeze" on your credit report pursuant to 9 V.S.A. § 2480h at no charge ~~if you are a victim of identity theft. All other Vermont consumers will pay a fee to the credit reporting agency of up to \$10.00 to place the freeze on their credit report.~~ The security freeze will prohibit a credit reporting agency from releasing any information in your credit report without your express authorization. ~~A security freeze must be requested in writing by certified mail.~~

The security freeze is designed to help prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gains access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, ~~internet~~ Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, within ten business days you will be provided a personal identification number ~~or~~, password, or other equally secure method of authentication to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. To provide that authorization, you must contact the credit reporting agency and provide all of the following:

(1) The unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency.

(2) Proper identification to verify your identity.

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

A credit reporting agency ~~may~~ shall not charge a fee ~~of up to \$5.00 to a consumer who is not a victim of identity theft~~ to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. ~~For a victim of identity theft, there is no charge when the victim submits a copy of a police report, investigative report, or complaint filed with a law enforcement agency about unlawful use of the victim's personal information by another person.~~

A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request.

A security freeze ~~will~~ shall not apply to "preauthorized approvals of credit." If you want to stop receiving preauthorized approvals of credit, you should call [INSERT PHONE NUMBERS] [ALSO INSERT ALL OTHER CONTACT INFORMATION FOR PRESCREENED OFFER ~~OPT-OUT~~ OPT-OUT.]

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account, provided you have previously given your consent to this use of your credit reports. Reviewing the account includes activities related to account maintenance, account monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a credit reporting agency or a user of your credit report."

(d) The information required to be disclosed by this section shall be disclosed in writing. The information required to be disclosed pursuant to subsection (c) of this section shall be disclosed on one side of a separate document, with text no smaller than that prescribed by the Federal Trade Commission for the notice required under 15 U.S.C. ~~§ 1681e~~ § 1681g. The information required to be disclosed pursuant to subsection (c) of this section may accurately reflect changes in numerical items that change over time (such as the ~~phone~~ telephone number or address of a Vermont State ~~agencies~~ agency); and remain in compliance.

(e) The Attorney General may revise this required notice by rule as appropriate from time to time ~~so long as~~, provided no new substantive rights are created therein.

Sec. 2. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

(a)(1) Any Vermont consumer may place a security freeze on his or her credit report. A credit reporting agency shall not charge a fee to ~~victims of identity theft but may charge a fee of up to \$10.00 to all other~~ a Vermont consumer consumer for placing and ~~\$5.00 for~~ or removing, removing for a specific party or parties, or removing for a specific period of time after the freeze is in place a security freeze on a credit report.

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request ~~in writing by certified mail to a credit reporting agency with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency~~ in writing or through another method adopted pursuant to subsection (e) of this section.

(3) A security freeze shall prohibit, subject to the exceptions in subsection (l) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. ~~When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

(4) This subsection does not prevent a credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A credit reporting agency shall place a security freeze on a consumer's credit report ~~no~~ not later than five business days after receiving a ~~written~~ request from the consumer.

(c) The credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password, other than the customer's Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used by the consumer when providing authorization for the release of his or her credit for a specific party, parties, or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or

she shall contact the credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) ~~Proper~~ proper identification;

(2) ~~The~~ the unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section; and

(3) ~~The~~ the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report.

(e) A credit reporting agency ~~may~~ shall develop reasonable procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process in an expedited manner a request from a consumer to place, temporarily lift, or remove a freeze on a credit report pursuant to ~~subsection (d) of this section in an expedited manner.~~

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request ~~no~~ not later than three business days after receiving the request.

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

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section.

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a consumer requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the consumer the process ~~of~~ for placing and temporarily lifting a security freeze and the process for allowing access to information from the consumer's credit report for a specific party, parties, or period of time while the security freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A credit reporting agency shall remove a

security freeze within three business days of receiving a request for removal from the consumer who provides both of the following:

(1) ~~Proper~~ proper identification; and

(2) ~~The~~ the unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(l) The provisions of this section, including the security freeze, ~~do~~ shall not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance, account 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 subsection (d) of this section for purposes of facilitating the extension of credit or ~~other~~ for another permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare fraud or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, ~~or~~ the Department of Motor Vehicles, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, to investigate or collect unpaid court orders, or to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Sec. 3. REPORT

On or before January 15, 2019, the Attorney General and the Department of Financial Regulation shall consider and report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on whether and how the State of Vermont may authorize Vermont consumers to place or remove a credit security freeze with all nationwide credit reporting agencies by making a single request to one agency.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, January 25, 2018.