

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 764 entitled “An act relating to data
4 brokers” respectfully reports that it has considered the same and recommends
5 that the Senate propose to the House that the bill amended by striking out Secs.
6 4–6 in their entirety and inserting in lieu thereof Secs. 4–7 as follows:

7 Sec. 4. 9 V.S.A. § 2480h is amended to read:

8 § 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME
9 IN EFFECT

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

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

1 ~~his or her credit report by making a request in writing by certified mail to a~~
2 ~~credit reporting agency.~~

3 (3) A security freeze shall prohibit, subject to the exceptions in
4 subsection (1) of this section, the credit reporting agency from releasing the
5 consumer's credit report or any information from it without the express
6 authorization of the consumer. ~~When a security freeze is in place, information~~
7 ~~from a consumer's credit report shall not be released to a third party without~~
8 ~~prior express authorization from the consumer.~~

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

12 (b)(1) A credit reporting agency shall place a security freeze on a
13 consumer's credit report ~~no~~ not later than five business days after receiving a
14 written request from the consumer.

15 (2) If a consumer requests that a security freeze be placed on his or her
16 credit report by a credit reporting agency, the agency shall initiate placement of
17 the freeze with other credit reporting agencies that compile and maintain files
18 on consumers on a nationwide basis, unless the consumer elects not to have the
19 security freeze applied to other credit reporting agencies.

20 (c) The credit reporting agency shall send a written confirmation of the
21 security freeze to the consumer within 10 business days and shall provide the

1 consumer with a unique personal identification number or password, other than
2 the customer's Social Security number, or another method of authentication
3 that is equally or more secure than a PIN or password, to be used by the
4 consumer when providing authorization for the release of his or her credit for a
5 specific party, parties, or period of time.

6 (d) If the consumer wishes to allow his or her credit report to be accessed
7 for a specific party, parties, or period of time while a freeze is in place, he or
8 she shall contact the credit reporting agency, request that the freeze be
9 temporarily lifted, and provide the following:

10 (1) ~~Proper~~ proper identification-;

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

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

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

20 (f) A credit reporting agency that receives a request from a consumer to lift
21 temporarily a freeze on a credit report pursuant to subsection (d) of this section

1 shall comply with the request ~~no~~ not later than three business days after
2 receiving the request.

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

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

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

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

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

1 (j) A security freeze shall remain in place until the consumer requests that
2 the security freeze be removed. A credit reporting agency shall remove a
3 security freeze within three business days of receiving a request for removal
4 from the consumer who provides both of the following:

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

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

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

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

13 (1) A person, or the person's subsidiary, affiliate, agent, or assignee with
14 which the consumer has or, prior to assignment, had an account, contract, or
15 debtor-creditor relationship for the purposes of reviewing the account or
16 collecting the financial obligation owing for the account, contract, or debt, or
17 extending credit to a consumer with a prior or existing account, contract, or
18 debtor-creditor relationship, subject to the requirements of section 2480e of
19 this title. For purposes of this subdivision, "reviewing the account" includes
20 activities related to account maintenance, monitoring, credit line increases, and
21 account upgrades and enhancements.

1 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a
2 person to whom access has been granted under subsection (d) of this section
3 for purposes of facilitating the extension of credit or other permissible use.

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

5 (4) The Office of Child Support when investigating a child support case
6 pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and
7 33 V.S.A. § 4102.

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

11 (6) The Department of Taxes, municipal taxing authorities, or the
12 Department of Motor Vehicles₂ or any of their agents or assignees, acting to
13 investigate or collect delinquent taxes or assessments, including interest and
14 penalties, unpaid court orders, or acting to fulfill any of their other statutory or
15 charter responsibilities.

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

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

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

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

3 Sec. 5. REPORTS

4 (a) On or before March 1, 2019, the Attorney General, the Department of
5 Financial Regulation, and Secretary of State shall submit a preliminary report
6 concerning the implementation of this act to the House Committee on
7 Commerce and Economic Development and the Senate Committee on
8 Economic Development, Housing and General Affairs.

9 (b) On or before January 15, 2020, the Attorney General, the Department
10 of Financial Regulation, and Secretary of State shall update its preliminary
11 report and provide additional information concerning the implementation of
12 this act to the House Committee on Commerce and Economic Development
13 and the Senate Committee on Economic Development, Housing and General
14 Affairs.

15 (c) On or before January 15, 2019, the Attorney General, in partnership
16 with the Department of Financial Regulation and the Cybersecurity Advisory
17 Team shall:

18 (1) review and consider additional legislative and regulatory approaches
19 to protecting the data security and privacy of Vermont consumers, including:

1 (A) whether to create or designate a Chief Privacy Officer and if so,
2 the appropriate duties for, and the resources necessary to support, that position;
3 and

4 (B) whether to expand the scope of regulation to businesses with
5 direct relationships to consumers; and

6 (2) report its findings and recommendations to the House Committees
7 on Commerce and Economic Development and on Energy and Technology and
8 to the Senate Committee on Economic Development, Housing and General
9 Affairs.

10 Sec. 6. 9 V.S.A. § 2431 is added to read:

11 § 2431. CYBERSECURITY ADVISORY TEAM

12 (a) There is created the Vermont State Cybersecurity Advisory Team
13 composed of the following members:

14 (1) the State Chief Information Security Officer;

15 (2) the State Chief Information Officer;

16 (3) the Governor’s Homeland Security Advisor or designee;

17 (4) a representative from the Vermont National Guard;

18 (5) the Attorney General or designee;

19 (6) a representative from Vermont Emergency Management;

20 (7) four members appointed by the Governor who are leaders from the
21 utilities sector, higher education, health care, or business.

1 **(b) The Team may in its discretion:**

2 **(1) establish interagency working groups to support its mission, drawing**
3 **membership from any agency or department of State government; and**

4 **(2) consult with private sector professionals and those from other states,**
5 **the federal government, and municipalities for information and advice on**
6 **issues related to its work.**

7 **(c) Powers and duties. The Council shall:**

8 **(1) develop a strategic plan for protection of Vermont public and private**
9 **sector information and systems;**

10 **(2) formally evaluate statewide cybersecurity readiness and develop best**
11 **practices for policies and procedures to strengthen administrative, technical,**
12 **and physical cybersecurity safeguards as a resource for State government,**
13 **Vermont businesses, and the public;**

14 **(3) build strong relationships and lines of communications among the**
15 **State government, federal government, and the private sector designed to**
16 **ensure resilience of electronic information systems;**

17 **(4) build strong partnerships with local universities and colleges in order**
18 **to leverage cybersecurity resources; and**

19 **(5) identify and advise on opportunities to:**

20 **(A) ensure Vermont promotes, attracts, and retains a highly skilled**
21 **cybersecurity workforce;**

1 (B) raise citizen awareness through outreach and public service
2 announcements;

3 (C) provide technical capabilities, training, and advice to local
4 government and the private sector;

5 (D) provide expertise to the General Assembly regarding statutory
6 language that could further protect critical assets, infrastructure, services, and
7 personally identifiable information;

8 (E) advise on strategic, operational, and budgetary impacts to the
9 State; and

10 (F) engage State and federal partners in assessing and managing risk.

11 (d) Assistance. The Council shall receive administrative and staff support
12 from the Secretary of Digital Services and legal support from the Governor’s
13 Counsel and the Department of Public Safety.

14 (e) Compensation and reimbursement. Members of the Council who are
15 not employees of the State of Vermont and who are not otherwise compensated
16 or reimbursed for their attendance at meetings shall be entitled to per diem
17 compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.
18 These payments shall be made from monies appropriated to the Agency of
19 Digital Services.

20 Sec. 7. EFFECTIVE DATES

1 (a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for
2 placing or removing a credit freeze), and 5 (reports) shall take effect on
3 passage.

4 (b) Sec. 2 (amending 9 V.S.A. chapter 62) shall take effect on July 1, 2018,
5 except that 9 V.S.A. § 2447 (data broker information security program) shall
6 take effect on January 1, 2019.

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE