

REFERENCE TITLE: credit report; score; security freeze

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1185**

Introduced by  
Senators Aguirre, Aboud, Arzberger, Leff, McCune Davis, O'Halleran, Rios;  
Representatives Lujan, McClure, Robson, Sinema: Senators Allen, Gray L,  
Soltero, Verschoor; Representatives Brown, Cajero Bedford, Hershberger,  
Lopes, Miranda B, Rios P, Tom, Ulmer

AN ACT

AMENDING SECTION 44-1695, ARIZONA REVISED STATUTES; AMENDING TITLE 44,  
CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1698;  
RELATING TO CONSUMER REPORTING AGENCIES AND FAIR CREDIT REPORTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1695, Arizona Revised Statutes, is amended to  
3 read:

4 44-1695. Liability

5 A. A consumer reporting agency or information source is not liable to  
6 any consumer resulting from:

7 1. Reporting inaccurate information corrected in compliance with  
8 ~~section~~ SECTIONS 44-1694 AND 44-1698 except as provided in this section.

9 2. FAILING TO LIFT A SECURITY FREEZE PURSUANT TO SECTION 44-1698,  
10 SUBSECTION G.

11 B. A consumer reporting agency is liable for any damages and attorney  
12 fees and court costs that are incurred by a consumer and that result from  
13 reporting of inaccurate information that a consumer reporting agency refuses  
14 to correct as provided in section 44-1694.

15 C. Any consumer reporting agency, user of information or source of  
16 information that is grossly negligent in the use or preparation of a consumer  
17 report or ~~who~~ THAT acts ~~willfully~~ WILFULLY and maliciously with intent to  
18 harm a consumer is liable to the consumer for actual damages, if any,  
19 punitive damages and attorney fees and court costs. If a consumer reporting  
20 agency prepares a consumer report, the consumer reporting agency shall follow  
21 reasonable procedures to ~~assure~~ ENSURE the maximum possible accuracy of the  
22 information relating to the consumer who is the subject of the consumer  
23 report.

24 D. UNDER SECTION 44-1698, ANY CONSUMER REPORTING AGENCY THAT IS  
25 GROSSLY NEGLIGENT OR THAT ACTS WILFULLY AND MALICIOUSLY WITH INTENT TO HARM A  
26 CONSUMER IS LIABLE TO THE CONSUMER FOR ACTUAL DAMAGES, IF ANY, ATTORNEY FEES  
27 AND COURT COSTS FOR THE FOLLOWING:

28 1. FAILING TO IMPLEMENT A SECURITY FREEZE.

29 2. RELEASING A CREDIT REPORT OR CREDIT SCORE IF A SECURITY FREEZE HAS  
30 BEEN PLACED BY THE CONSUMER.

31 3. FAILING TO REMOVE A SECURITY FREEZE AT THE CONSUMER'S REQUEST.

32 Sec. 2. Title 44, chapter 11, article 6, Arizona Revised Statutes, is  
33 amended by adding section 44-1698, to read:

34 44-1698. Credit reports; credit score; security freeze;  
35 definitions

36 A. A CONSUMER MAY REQUEST IN WRITING OR IN A FORM ACCEPTABLE TO THE  
37 CONSUMER REPORTING AGENCY THAT A CONSUMER REPORTING AGENCY PLACE A SECURITY  
38 FREEZE ON THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE. IF A  
39 SECURITY FREEZE IS IN PLACE, A CONSUMER REPORTING AGENCY SHALL NOT RELEASE A  
40 CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE TO A THIRD PARTY WITHOUT  
41 THE CONSUMER'S PRIOR EXPRESS AUTHORIZATION. THIS SUBSECTION DOES NOT PREVENT  
42 A CONSUMER REPORTING AGENCY FROM ADVISING A SPECIFIC PARTY THAT A SECURITY  
43 FREEZE IS IN EFFECT WITH RESPECT TO THE CONSUMER'S CREDIT REPORT OR  
44 CONSUMER'S CREDIT SCORE.

1 B. A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE ON A  
2 CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE NOT LATER THAN TEN  
3 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST FROM THE CONSUMER.

4 C. THE CONSUMER REPORTING AGENCY SHALL SEND A WRITTEN CONFIRMATION OF  
5 THE SECURITY FREEZE TO THE CONSUMER WITHIN TEN BUSINESS DAYS AFTER PLACING  
6 THE SECURITY FREEZE ON THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT  
7 SCORE AND SHALL PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL IDENTIFICATION  
8 NUMBER OR PASSWORD, OTHER THAN THE CONSUMER'S SOCIAL SECURITY NUMBER, THAT  
9 THE CONSUMER MAY USE TO PROVIDE AUTHORIZATION FOR THE RELEASE OF THE  
10 CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE FOR A SPECIFIC PERIOD OF  
11 TIME.

12 D. A SECURITY FREEZE REMAINS IN EFFECT UNTIL THE CONSUMER REQUESTS  
13 THAT THE SECURITY FREEZE BE REMOVED OR TEMPORARILY LIFTED AS PROVIDED IN THIS  
14 SECTION. A CONSUMER MAY REQUEST THAT A SECURITY FREEZE BE REMOVED OR  
15 TEMPORARILY LIFTED BY MAIL, TELEPHONE, INTERNET OR OTHER ELECTRONIC CONTACT  
16 METHOD IN A FORM ACCEPTABLE TO THE CONSUMER REPORTING AGENCY. A CONSUMER  
17 REPORTING AGENCY SHALL REQUIRE PROPER IDENTIFICATION OF ANY PERSON WHO MAKES  
18 A REQUEST TO PLACE OR REMOVE A SECURITY FREEZE.

19 E. ON REQUESTING REMOVAL, THE CONSUMER SHALL PROVIDE THE FOLLOWING  
20 INFORMATION:

21 1. PROPER IDENTIFICATION.

22 2. THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD THAT THE  
23 CONSUMER REPORTING AGENCY PROVIDED TO THE CONSUMER.

24 F. ON REQUESTING A TEMPORARY LIFT TO ALLOW A CREDIT REPORT OR CREDIT  
25 SCORE TO BE ACCESSED FOR A SPECIFIC PERIOD OF TIME, THE CONSUMER SHALL  
26 CONTACT THE CONSUMER REPORTING AGENCY AND SHALL REQUEST THAT THE SECURITY  
27 FREEZE BE TEMPORARILY LIFTED AND SHALL PROVIDE THE FOLLOWING INFORMATION:

28 1. PROPER IDENTIFICATION.

29 2. THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD THAT THE  
30 CONSUMER REPORTING AGENCY PROVIDED TO THE CONSUMER.

31 3. THE PROPER INFORMATION REGARDING THE SPECIFIC TIME PERIOD FOR WHICH  
32 THE REPORT SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT OR CREDIT SCORE.

33 G. A CONSUMER REPORTING AGENCY SHALL REMOVE OR TEMPORARILY LIFT A  
34 SECURITY FREEZE FROM A CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE  
35 WITHIN:

36 1. THREE BUSINESS DAYS AFTER RECEIVING THE CONSUMER'S REQUEST FOR THE  
37 REMOVAL OR TEMPORARY LIFT BY MAIL.

38 2. FIFTEEN MINUTES AFTER RECEIVING THE CONSUMER'S REQUEST THROUGH THE  
39 USE OF TELEPHONE, INTERNET OR OTHER ELECTRONIC CONTACT METHOD IN A FORM  
40 ACCEPTABLE TO THE CONSUMER REPORTING AGENCY, DURING NORMAL BUSINESS HOURS.  
41 THE CONSUMER REPORTING AGENCY IS NOT REQUIRED TO REMOVE OR TEMPORARILY LIFT  
42 THE SECURITY FREEZE WITHIN THE FIFTEEN MINUTE TIME LIMIT IF THE AGENCY'S  
43 ABILITY IS PREVENTED BY ANY OF THE FOLLOWING:

44 (a) AN ACT OF GOD, INCLUDING FIRE, EARTHQUAKES, HURRICANES, STORMS OR  
45 SIMILAR NATURAL DISASTER OR PHENOMENA.

1 (b) UNAUTHORIZED OR ILLEGAL ACTS BY A THIRD PARTY, INCLUDING  
2 TERRORISM, SABOTAGE, RIOT, VANDALISM, LABOR STRIKES OR DISPUTES DISRUPTING  
3 OPERATIONS OR SIMILAR OCCURRENCE.

4 (c) OPERATIONAL INTERRUPTION, INCLUDING ELECTRICAL FAILURE,  
5 UNANTICIPATED DELAY IN EQUIPMENT OR REPLACEMENT PART DELIVERY, COMPUTER  
6 HARDWARE OR SOFTWARE FAILURES INHIBITING RESPONSE TIME OR SIMILAR DISRUPTION.

7 (d) GOVERNMENTAL ACTION, INCLUDING EMERGENCY ORDERS OR REGULATIONS,  
8 JUDICIAL OR LAW ENFORCEMENT ACTION OR SIMILAR DIRECTIVES.

9 (e) REGULARLY SCHEDULED MAINTENANCE, DURING OTHER THAN NORMAL BUSINESS  
10 HOURS OF, OR UPDATES TO, THE CONSUMER REPORTING AGENCY'S SYSTEMS.

11 (f) COMMERCIALLY REASONABLE MAINTENANCE OF, OR REPAIR TO, THE CONSUMER  
12 REPORTING AGENCY'S SYSTEMS THAT IS UNEXPECTED OR UNSCHEDULED.

13 (g) RECEIPT OF A REMOVAL OR TEMPORARY LIFT REQUEST OUTSIDE OF NORMAL  
14 BUSINESS HOURS.

15 H. A CONSUMER REPORTING AGENCY SHALL REMOVE OR TEMPORARILY LIFT A  
16 SECURITY FREEZE PLACED ON A CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT  
17 SCORE ONLY IN THE FOLLOWING CASES:

18 1. IF THE CONSUMER REQUESTS REMOVAL PURSUANT TO SUBSECTION E OR A  
19 TEMPORARY LIFT PURSUANT TO SUBSECTION F.

20 2. IF THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE WAS  
21 FROZEN AS A RESULT OF A MATERIAL MISREPRESENTATION OF FACT. IF A CONSUMER  
22 REPORTING AGENCY INTENDS TO REMOVE A SECURITY FREEZE ON A CONSUMER'S CREDIT  
23 REPORT OR CONSUMER'S CREDIT SCORE PURSUANT TO THIS PARAGRAPH, THE CONSUMER  
24 REPORTING AGENCY SHALL NOTIFY THE CONSUMER BEFORE REMOVING THE SECURITY  
25 FREEZE ON THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE.

26 I. WHEN A CONSUMER REQUESTS A SECURITY FREEZE, THE CONSUMER REPORTING  
27 AGENCY SHALL DISCLOSE THE PROCESS FOR PLACING AND FOR REMOVING OR TEMPORARILY  
28 LIFTING A FREEZE AND THE PROCESS FOR ALLOWING ACCESS TO INFORMATION FROM THE  
29 CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE FOR A SPECIFIC PERIOD OF  
30 TIME WHILE THE SECURITY FREEZE IS IN PLACE.

31 J. IF A THIRD PARTY REQUESTS ACCESS TO A CREDIT REPORT OR CREDIT SCORE  
32 ON WHICH A SECURITY FREEZE IS IN EFFECT, THE REQUEST IS IN CONNECTION WITH AN  
33 APPLICATION FOR CREDIT OR ANY OTHER USE AND THE CONSUMER DOES NOT ALLOW THE  
34 CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE TO BE ACCESSED FOR A  
35 SPECIFIC PERIOD OF TIME, THE THIRD PARTY MAY TREAT THE APPLICATION AS  
36 INCOMPLETE.

37 K. A CONSUMER REPORTING AGENCY MAY CHARGE A FIVE DOLLAR FEE FOR EACH  
38 SECURITY FREEZE, REMOVAL OF THE FREEZE OR TEMPORARY LIFT OF THE FREEZE FOR A  
39 PERIOD OF TIME ON THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE. A  
40 CONSUMER REPORTING AGENCY SHALL NOT CHARGE A FEE TO A VICTIM OF IDENTITY  
41 THEFT WHO SUBMITS A VALID POLICE REPORT THAT ALLEGES A VIOLATION OF SECTION  
42 13-2008, 13-2009 OR 13-2010.

43 L. A CONSUMER REPORTING AGENCY MAY CHARGE A FIVE DOLLAR FEE IF THE  
44 CONSUMER FAILS TO RETAIN THE ORIGINAL UNIQUE PERSONAL IDENTIFICATION NUMBER  
45 OR PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY AND THE CONSUMER

1 REPORTING AGENCY MUST REISSUE THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR  
2 PASSWORD OR PROVIDE A NEW UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD  
3 TO THE CONSUMER.

4 M. IF A SECURITY FREEZE IS IN PLACE, A CONSUMER REPORTING AGENCY SHALL  
5 NOT CHANGE A CONSUMER'S NAME, DATE OF BIRTH, SOCIAL SECURITY NUMBER OR  
6 ADDRESS IN THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE WITHOUT  
7 SENDING A WRITTEN CONFIRMATION OF THE CHANGE TO THE CONSUMER WITHIN THIRTY  
8 DAYS AFTER THE CHANGE IS POSTED TO THE CONSUMER'S FILE. WRITTEN CONFIRMATION  
9 IS NOT REQUIRED FOR TECHNICAL MODIFICATIONS OF A CONSUMER'S OFFICIAL  
10 INFORMATION, INCLUDING NAME AND STREET ABBREVIATIONS, COMPLETE SPELLINGS OR  
11 TRANSPOSITION OF NUMBERS OR LETTERS. FOR THE PURPOSES OF ADDRESS CHANGES,  
12 THE CONSUMER REPORTING AGENCY SHALL SEND THE WRITTEN CONFIRMATION TO BOTH THE  
13 NEW ADDRESS AND THE FORMER ADDRESS.

14 N. THIS SECTION DOES NOT APPLY TO THE USE OF A CREDIT REPORT OR CREDIT  
15 SCORE BY ANY OF THE FOLLOWING:

16 1. A PERSON, A SUBSIDIARY, AFFILIATE OR AGENT OF THAT PERSON, AN  
17 ASSIGNEE OF A FINANCIAL OBLIGATION OWED BY THE CONSUMER TO THAT PERSON OR A  
18 PROSPECTIVE ASSIGNEE OF A FINANCIAL OBLIGATION OWED BY THE CONSUMER TO THAT  
19 PERSON IN CONJUNCTION WITH THE PROPOSED PURCHASE OF THE FINANCIAL OBLIGATION  
20 WITH WHICH THE CONSUMER HAS OR HAD BEFORE ASSIGNMENT AN ACCOUNT OR CONTRACT,  
21 INCLUDING A DEMAND DEPOSIT ACCOUNT, OR TO WHOM THE CONSUMER ISSUED A  
22 NEGOTIABLE INSTRUMENT, FOR THE PURPOSES OF REVIEWING THE ACCOUNT OR  
23 COLLECTING THE FINANCIAL OBLIGATION OWED FOR THE ACCOUNT, CONTRACT OR  
24 NEGOTIABLE INSTRUMENT. FOR THE PURPOSES OF THIS PARAGRAPH, "REVIEWING THE  
25 ACCOUNT" INCLUDES ACTIVITIES THAT ARE RELATED TO ACCOUNT MAINTENANCE,  
26 MONITORING, CREDIT LINE INCREASES AND ACCOUNT UPGRADES AND ENHANCEMENTS.

27 2. A SUBSIDIARY, AFFILIATE, AGENT, ASSIGNEE OR PROSPECTIVE ASSIGNEE OF  
28 A PERSON TO WHOM ACCESS HAS BEEN GRANTED UNDER THIS SECTION FOR THE PURPOSE  
29 OF FACILITATING THE EXTENSION OF CREDIT OR OTHER PERMISSIBLE USE.

30 3. ANY STATE OR LOCAL AGENCY, LAW ENFORCEMENT AGENCY, TRIAL COURT OR  
31 PRIVATE COLLECTION AGENCY ACTING PURSUANT TO A COURT ORDER, WARRANT OR  
32 SUBPOENA.

33 4. A CHILD SUPPORT AGENCY ACTING PURSUANT TO TITLE 25, CHAPTER 3,  
34 ARTICLE 2 OR TITLE IV-D OF THE SOCIAL SECURITY ACT.

35 5. THE DEPARTMENT OF HEALTH SERVICES OR ITS AGENTS OR ASSIGNS ACTING  
36 TO INVESTIGATE FRAUD.

37 6. THE DEPARTMENT OF REVENUE OR ITS AGENTS OR ASSIGNS ACTING TO  
38 INVESTIGATE OR COLLECT DELINQUENT TAXES OR UNPAID COURT ORDERS OR TO FULFILL  
39 ANY OF ITS OTHER STATUTORY RESPONSIBILITIES.

40 7. THE DEPARTMENT OF TRANSPORTATION OR ITS AGENTS OR ASSIGNS ACTING TO  
41 INVESTIGATE OR COLLECT DELINQUENT TAXES OR UNPAID COURT ORDERS OR TO FULFILL  
42 ANY OF ITS OTHER STATUTORY RESPONSIBILITIES.

43 8. THE ADMINISTRATIVE OFFICE OF THE COURTS TO CONDUCT AUDITS OR  
44 INVESTIGATE FRAUD OR FOR APPLICANT SCREENING.

1           9. ANY AGENCY OR ENTITY FOR THE PURPOSES OF PRESCREENING AS PROVIDED  
2 FOR BY THE FEDERAL FAIR CREDIT REPORTING ACT (15 UNITED STATES CODE SECTION  
3 1681b).

4           10. ANY PERSON OR ENTITY THAT ADMINISTERS A CREDIT FILE MONITORING  
5 SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS SUBSCRIBED.

6           11. ANY PERSON OR ENTITY FOR THE PURPOSE OF PROVIDING A CONSUMER WITH A  
7 COPY OF THE CONSUMER'S CREDIT REPORT OR CONSUMER'S CREDIT SCORE ON THE  
8 CONSUMER'S REQUEST.

9           12. EXCEPT AS OTHERWISE PROVIDED BY LAW, A PERSON SETTING OR ADJUSTING  
10 A RATE OR CLAIM OR UNDERWRITING FOR INSURANCE PURPOSES.

11           13. A CONSUMER REPORTING AGENCY'S DATABASE OR FILE THAT CONSISTS  
12 ENTIRELY OF INFORMATION CONCERNING, AND IS USED SOLELY FOR, ONE OR MORE OF  
13 THE FOLLOWING:

14           (a) CRIMINAL RECORD INFORMATION.

15           (b) FRAUD PREVENTION OR DETECTION.

16           (c) TENANT SCREENING.

17           (d) EMPLOYMENT SCREENING.

18           14. ANY STATE OR FEDERALLY REGULATED FINANCIAL INSTITUTION FOR  
19 CHECKING, SAVINGS AND INVESTMENT ACCOUNTS.

20           O. THE FOLLOWING ENTITIES ARE NOT REQUIRED TO PLACE A SECURITY FREEZE  
21 ON A CREDIT REPORT OR CREDIT SCORE:

22           1. A CHECK SERVICES OR FRAUD PREVENTION SERVICES COMPANY THAT ISSUES  
23 REPORTS ON INCIDENTS OF FRAUD OR AUTHORIZATIONS FOR THE PURPOSE OF APPROVING  
24 OR PROCESSING NEGOTIABLE INSTRUMENTS, ELECTRONIC FUNDS TRANSFERS OR SIMILAR  
25 METHODS OF PAYMENTS.

26           2. A DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY THAT ISSUES REPORTS  
27 REGARDING ACCOUNT CLOSURES DUE TO FRAUD, SUBSTANTIAL OVERDRAFTS, AUTOMATED  
28 TELLER MACHINE ABUSE OR SIMILAR NEGATIVE INFORMATION REGARDING A CONSUMER TO  
29 INQUIRING BANKS OR OTHER FINANCIAL INSTITUTIONS FOR USE ONLY IN REVIEWING A  
30 CONSUMER REQUEST FOR A DEPOSIT ACCOUNT AT THE INQUIRING BANK OR FINANCIAL  
31 INSTITUTION.

32           3. A CONSUMER REPORTING AGENCY THAT ACTS ONLY AS A RESELLER OF CREDIT  
33 INFORMATION BY ASSEMBLING AND MERGING INFORMATION CONTAINED IN THE DATABASE  
34 OF ANOTHER CONSUMER REPORTING AGENCY OR MULTIPLE CONSUMER REPORTING AGENCIES  
35 AND THAT DOES NOT MAINTAIN A PERMANENT DATABASE OF CREDIT INFORMATION FROM  
36 WHICH NEW CREDIT REPORTS OR CREDIT SCORES ARE PRODUCED.

37           P. AN ACT OR PRACTICE IN VIOLATION OF THIS SECTION IS AN UNLAWFUL  
38 PRACTICE UNDER SECTION 44-1522 AND IS SUBJECT TO ENFORCEMENT THROUGH A  
39 PRIVATE ACTION AND BY THE ATTORNEY GENERAL. INJUNCTIVE RELIEF MAY BE SOUGHT  
40 TO PREVENT FUTURE VIOLATIONS OF THIS SECTION. THE REMEDIES PROVIDED IN THIS  
41 SECTION ARE NOT INTENDED TO BE THE EXCLUSIVE REMEDIES AVAILABLE TO A  
42 BORROWER.

43           Q. FOR THE PURPOSES OF THIS SECTION:

44           1. "PROPER IDENTIFICATION" MEANS INFORMATION THAT IS GENERALLY DEEMED  
45 TO BE SUFFICIENT TO IDENTIFY A PERSON UNDER THE CIRCUMSTANCES.

1           2. "SECURITY FREEZE" MEANS A NOTICE THAT IS PLACED IN A CONSUMER'S  
2 CREDIT REPORT OR CONSUMER'S CREDIT SCORE AT THE REQUEST OF THE CONSUMER AND  
3 THAT PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE CONSUMER'S  
4 CREDIT REPORT OR CONSUMER'S CREDIT SCORE WITHOUT THE EXPRESS AUTHORIZATION OF  
5 THE CONSUMER.  
6           Sec. 3. Effective date: conditional retroactivity  
7           This act is effective from and after August 31, 2008, except that if  
8 the general effective date for legislation passed in the forty-eighth  
9 Legislature, second regular session is after September 1, 2008 this act  
10 applies retroactively to from and after August 31, 2008.