

HB3674



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3674

by Rep. Mary Edly-Allen

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that, in addition to a freeze on a minor's consumer report, a freeze may be placed on the credit file of a minor and specified other persons. Establishes the procedures for obtaining a freeze on the credit file of a minor or protected consumer. Defines terms.

LRB101 04817 TAE 49826 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2MM as follows:

6 (815 ILCS 505/2MM)

7 Sec. 2MM. Verification of accuracy of consumer reporting
8 information used to extend consumers credit and security freeze
9 on credit reports.

10 (a) A credit card issuer who mails an offer or solicitation
11 to apply for a credit card and who receives a completed
12 application in response to the offer or solicitation which
13 lists an address that is not substantially the same as the
14 address on the offer or solicitation may not issue a credit
15 card based on that application until reasonable steps have been
16 taken to verify the applicant's change of address.

17 (b) Any person who uses a consumer credit report in
18 connection with the approval of credit based on the application
19 for an extension of credit, and who has received notification
20 of a police report filed with a consumer reporting agency that
21 the applicant has been a victim of financial identity theft, as
22 defined in Section 16-30 or 16G-15 of the Criminal Code of 1961
23 or the Criminal Code of 2012, may not lend money or extend

1 credit without taking reasonable steps to verify the consumer's
2 identity and confirm that the application for an extension of
3 credit is not the result of financial identity theft.

4 (c) A consumer may request that a security freeze be placed
5 on his or her credit report by sending a request in writing by
6 certified mail or by at least one of telephone or electronic
7 means to a consumer reporting agency at an address or telephone
8 or electronic location designated by the consumer reporting
9 agency to receive such requests.

10 The following persons may request that a security freeze be
11 placed on the credit report of a person with a disability:

12 (1) a guardian of the person with a disability who is
13 the subject of the request, appointed under Article XIa of
14 the Probate Act of 1975; and

15 (2) an agent of the person with a disability who is the
16 subject of the request, under a written durable power of
17 attorney that complies with the Illinois Power of Attorney
18 Act.

19 The following persons may request that a security freeze be
20 placed on the credit report of a minor:

21 (1) a guardian of the minor who is the subject of the
22 request, appointed under Article XI of the Probate Act of
23 1975;

24 (2) a parent of the minor who is the subject of the
25 request; and

26 (3) a guardian appointed under the Juvenile Court Act

1 of 1987 for a minor under the age of 18 who is the subject
2 of the request or, with a court order authorizing the
3 guardian consent power, for a youth who is the subject of
4 the request who has attained the age of 18, but who is
5 under the age of 21.

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

9 (d) A consumer reporting agency shall place a security
10 freeze on a consumer's credit report no later than 5 business
11 days after receiving a written request from the consumer:

12 (1) a written request described in subsection (c); and

13 (2) proper identification.

14 (e) Upon placing the security freeze on the consumer's
15 credit report, the consumer reporting agency shall send to the
16 consumer within 10 business days a written confirmation of the
17 placement of the security freeze and a unique personal
18 identification number or password or similar device, other than
19 the consumer's Social Security number, to be used by the
20 consumer when providing authorization for the release of his or
21 her credit report for a specific party or period of time.

22 (f) If the consumer wishes to allow his or her credit
23 report to be accessed for a specific party or period of time
24 while a freeze is in place, he or she shall contact the
25 consumer reporting agency using a point of contact designated
26 by the consumer reporting agency, request that the freeze be

1 temporarily lifted, and provide the following:

2 (1) proper identification;

3 (2) the unique personal identification number or
4 password or similar device provided by the consumer
5 reporting agency; and

6 (3) the proper information regarding the third party or
7 time period for which the report shall be available to
8 users of the credit report.

9 A security freeze for a minor may not be temporarily
10 lifted. This Section does not require a consumer reporting
11 agency to provide to a minor or a parent or guardian of a minor
12 on behalf of the minor a unique personal identification number,
13 password, or similar device provided by the consumer reporting
14 agency for the minor, or parent or guardian of the minor, to
15 use to authorize the consumer reporting agency to release
16 information from a minor.

17 (f-5) The following persons may request that a security
18 freeze be placed on the credit file of a minor:

19 (1) a parent of the minor who is the subject of the
20 request;

21 (2) a guardian, appointed under Article XI of the
22 Probate Act of 1975, of the minor who is the subject of the
23 request; and

24 (3) a guardian, appointed under the Juvenile Court Act
25 of 1987, of a minor under the age of 18 who is the subject
26 of the request or, with a court order authorizing the

1 guardian's consent power, of a youth who is the subject of
2 the request who has attained the age of 18, but who is
3 under the age of 21.

4 (f-10) A request under subsection (f-5) must be in writing
5 and must contain:

6 (1) The following information with respect to the
7 parent or guardian:

8 (A) complete name, including any suffix;

9 (B) a complete address;

10 (C) a copy of the person's social security card or
11 a certified or official copy of the person's birth
12 certificate; and

13 (D) a copy of the person's driver's license,
14 identification card issued by the Secretary of State or
15 any other government-issued identification, or a copy
16 of a utility bill that shows name and home address.

17 (2) The following information with respect to the
18 protected consumer or minor who is the subject of the
19 freeze:

20 (A) complete name, including any suffix;

21 (B) a complete address;

22 (C) a copy of a social security card;

23 (D) for a minor, a certified or official copy of
24 the minor's birth certificate; and

25 (E) for a person under guardianship or power of
26 attorney, an order issued by a court of law, a lawfully

1 executed and valid power of attorney, or a written,
2 signed, and notarized statement that expressly
3 describes the authority of the person making the
4 request to act on behalf of the protected consumer.

5 A security freeze on a credit file for a minor may not be
6 temporarily lifted.

7 (g) A consumer reporting agency shall develop a contact
8 method to receive and process a request from a consumer to
9 temporarily lift a freeze on a credit report pursuant to
10 subsection (f) in an expedited manner.

11 A contact method under this subsection shall include: (i) a
12 postal address; and (ii) an electronic contact method chosen by
13 the consumer reporting agency, which may include the use of
14 telephone, fax, Internet, or other electronic means.

15 (h) A consumer reporting agency that receives a request
16 from a consumer to temporarily lift a freeze on a credit report
17 pursuant to subsection (f), shall comply with the request no
18 later than 3 business days after receiving the request.

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

22 (1) upon consumer request, pursuant to subsection (f)
23 or subsection (1) of this Section; or

24 (2) if the consumer's credit report was frozen due to a
25 material misrepresentation of fact by the consumer.

26 If a consumer reporting agency intends to remove a freeze

1 upon a consumer's credit report pursuant to this subsection,
2 the consumer reporting agency shall notify the consumer in
3 writing prior to removing the freeze on the consumer's credit
4 report.

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

11 (k) If a consumer requests a security freeze, the credit
12 reporting agency shall disclose to the consumer the process of
13 placing and temporarily lifting a security freeze, and the
14 process for allowing access to information from the consumer's
15 credit report for a specific party or period of time while the
16 freeze is in place.

17 (l) A security freeze shall remain in place until the
18 consumer or person authorized under subsection (c) to act on
19 behalf of the minor or person with a disability who is the
20 subject of the security freeze requests, using a point of
21 contact designated by the consumer reporting agency, that the
22 security freeze be removed. A credit reporting agency shall
23 remove a security freeze within 3 business days of receiving a
24 request for removal from the consumer, who provides:

25 (1) proper identification; and

26 (2) the unique personal identification number or

1 password or similar device provided by the consumer
2 reporting agency.

3 (m) A consumer reporting agency shall require proper
4 identification of the person making a request to place or
5 remove a security freeze and may require proper identification
6 and proper authority from the person making the request to
7 place or remove a freeze on behalf of the person with a
8 disability or minor.

9 (n) The provisions of subsections (c) through (m) of this
10 Section do not apply to the use of a consumer credit report by
11 any of the following:

12 (1) A person or entity, or a subsidiary, affiliate, or
13 agent of that person or entity, or an assignee of a
14 financial obligation owing by the consumer to that person
15 or entity, or a prospective assignee of a financial
16 obligation owing by the consumer to that person or entity
17 in conjunction with the proposed purchase of the financial
18 obligation, with which the consumer has or had prior to
19 assignment an account or contract, including a demand
20 deposit account, or to whom the consumer issued a
21 negotiable instrument, for the purposes of reviewing the
22 account or collecting the financial obligation owing for
23 the account, contract, or negotiable instrument. For
24 purposes of this subsection, "reviewing the account"
25 includes activities related to account maintenance,
26 monitoring, credit line increases, and account upgrades

1 and enhancements.

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

7 (3) Any state or local agency, law enforcement agency,
8 trial court, or private collection agency acting pursuant
9 to a court order, warrant, or subpoena.

10 (4) A child support agency acting pursuant to Title
11 IV-D of the Social Security Act.

12 (5) The State or its agents or assigns acting to
13 investigate fraud.

14 (6) The Department of Revenue or its agents or assigns
15 acting to investigate or collect delinquent taxes or unpaid
16 court orders or to fulfill any of its other statutory
17 responsibilities.

18 (7) The use of credit information for the purposes of
19 prescreening as provided for by the federal Fair Credit
20 Reporting Act.

21 (8) Any person or entity administering a credit file
22 monitoring subscription or similar service to which the
23 consumer has subscribed.

24 (9) Any person or entity for the purpose of providing a
25 consumer with a copy of his or her credit report or score
26 upon the consumer's request.

1 (10) Any person using the information in connection
2 with the underwriting of insurance.

3 (n-5) A consumer reporting agency may not impose a charge
4 on a consumer for placing a freeze, removing a freeze, or
5 temporarily lifting a freeze.

6 (o) If a security freeze is in place, a consumer reporting
7 agency shall not change any of the following official
8 information in a credit report without sending a written
9 confirmation of the change to the consumer within 30 days of
10 the change being posted to the consumer's file: (i) name, (ii)
11 date of birth, (iii) Social Security number, and (iv) address.
12 Written confirmation is not required for technical
13 modifications of a consumer's official information, including
14 name and street abbreviations, complete spellings, or
15 transposition of numbers or letters. In the case of an address
16 change, the written confirmation shall be sent to both the new
17 address and to the former address.

18 (p) The following entities are not required to place a
19 security freeze in a consumer report, however, pursuant to
20 paragraph (3) of this subsection, a consumer reporting agency
21 acting as a reseller shall honor any security freeze placed on
22 a consumer credit report by another consumer reporting agency:

23 (1) A check services or fraud prevention services
24 company, which issues reports on incidents of fraud or
25 authorizations for the purpose of approving or processing
26 negotiable instruments, electronic funds transfers, or

1 similar methods of payment.

2 (2) A deposit account information service company,
3 which issues reports regarding account closures due to
4 fraud, substantial overdrafts, ATM abuse, or similar
5 negative information regarding a consumer to inquiring
6 banks or other financial institutions for use only in
7 reviewing a consumer request for a deposit account at the
8 inquiring bank or financial institution.

9 (3) A consumer reporting agency that:

10 (A) acts only to resell credit information by
11 assembling and merging information contained in a
12 database of one or more consumer reporting agencies;
13 and

14 (B) does not maintain a permanent database of
15 credit information from which new credit reports are
16 produced.

17 (q) For purposes of this Section:

18 "Credit file" has the same meaning as provided for "file"
19 in 15 U.S.C. 1681a(q).

20 "Credit report" has the same meaning as "consumer report",
21 as ascribed to it in 15 U.S.C. Sec. 1681a(d).

22 "Consumer reporting agency" has the meaning ascribed to it
23 in 15 U.S.C. Sec. 1681a(f).

24 "Security freeze" means a notice placed in a consumer's
25 credit report, at the request of the consumer and subject to
26 certain exceptions, that prohibits the consumer reporting

1 agency from releasing the consumer's credit report or score
2 relating to an extension of credit, without the express
3 authorization of the consumer.

4 "Extension of credit" does not include an increase in an
5 existing open-end credit plan, as defined in Regulation Z of
6 the Federal Reserve System (12 C.F.R. 226.2), or any change to
7 or review of an existing credit account.

8 "Proper authority" means documentation that shows that a
9 parent, guardian, or agent has authority to act on behalf of a
10 minor or person with a disability. "Proper authority" includes
11 (1) an order issued by a court of law that shows that a
12 guardian has authority to act on behalf of a minor or person
13 with a disability, (2) a written, notarized statement signed by
14 a parent that expressly describes the authority of the parent
15 to act on behalf of the minor, or (3) a durable power of
16 attorney that complies with the Illinois Power of Attorney Act.

17 "Proper identification" means information generally deemed
18 sufficient to identify a person. Only if the consumer is unable
19 to reasonably identify himself or herself with the information
20 described above, may a consumer reporting agency require
21 additional information concerning the consumer's employment
22 and personal or family history in order to verify his or her
23 identity.

24 (r) Any person who violates this Section commits an
25 unlawful practice within the meaning of this Act.

26 (Source: P.A. 99-143, eff. 7-27-15; 99-373, eff. 1-1-16;

1 99-642, eff. 7-28-16; 100-589, eff. 6-8-18.)