

HB3872



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3872

by Rep. Michelle Mussman

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 minor's credit file. Establishes the procedures for obtaining a freeze on a minor's or protected consumer's credit file. Defines terms.

LRB100 10946 KTG 21882 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 to a consumer reporting agency at an address
7 designated by the consumer reporting agency to receive such
8 requests.

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

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

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

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

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

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

25 (3) a guardian appointed under the Juvenile Court Act
26 of 1987 for a minor under the age of 18 who is the subject

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

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

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

11 (1) a written request described in subsection (c);

12 (2) proper identification; and

13 (3) payment of a fee, if applicable.

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;

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; and

9 (4) A fee, if applicable.

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

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

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

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

25 (3) a guardian appointed under the Juvenile Court Act
26 of 1987 for a minor under the age of 18 who is the subject

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

5 The request must be in writing 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;

26 (2) The unique personal identification number or

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

3 (3) A fee, if applicable.

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

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

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

1 monitoring, credit line increases, and account upgrades
2 and enhancements.

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

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

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

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

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

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

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

25 (9) Any person or entity for the purpose of providing a
26 consumer with a copy of his or her credit report or score

1 upon the consumer's request.

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

4 (n-5) This Section does not prevent a consumer reporting
5 agency from charging a fee of no more than \$10 to a consumer
6 for each freeze, removal, or temporary lift of the freeze,
7 regarding access to a consumer credit report, except that a
8 consumer reporting agency may not charge a fee to: (i) a
9 consumer 65 years of age or over for placement and removal of a
10 freeze; (ii) a victim of identity theft who has submitted to
11 the consumer reporting agency a valid copy of a police report,
12 investigative report, or complaint that the consumer has filed
13 with a law enforcement agency about unlawful use of his or her
14 personal information by another person; or (iii) an active duty
15 military service member who has submitted to the consumer
16 reporting agency a copy of his or her orders calling the
17 service member to military service and any orders further
18 extending the service member's period of service if currently
19 active.

20 (o) If a security freeze is in place, a consumer reporting
21 agency shall not change any of the following official
22 information in a credit report without sending a written
23 confirmation of the change to the consumer within 30 days of
24 the change being posted to the consumer's file: (i) name, (ii)
25 date of birth, (iii) Social Security number, and (iv) address.
26 Written confirmation is not required for technical

1 modifications of a consumer's official information, including
2 name and street abbreviations, complete spellings, or
3 transposition of numbers or letters. In the case of an address
4 change, the written confirmation shall be sent to both the new
5 address and to the former address.

6 (p) The following entities are not required to place a
7 security freeze in a consumer report, however, pursuant to
8 paragraph (3) of this subsection, a consumer reporting agency
9 acting as a reseller shall honor any security freeze placed on
10 a consumer credit report by another consumer reporting agency:

11 (1) A check services or fraud prevention services
12 company, which issues reports on incidents of fraud or
13 authorizations for the purpose of approving or processing
14 negotiable instruments, electronic funds transfers, or
15 similar methods of payment.

16 (2) A deposit account information service company,
17 which issues reports regarding account closures due to
18 fraud, substantial overdrafts, ATM abuse, or similar
19 negative information regarding a consumer to inquiring
20 banks or other financial institutions for use only in
21 reviewing a consumer request for a deposit account at the
22 inquiring bank or financial institution.

23 (3) A consumer reporting agency that:

24 (A) acts only to resell credit information by
25 assembling and merging information contained in a
26 database of one or more consumer reporting agencies;

1 and

2 (B) does not maintain a permanent database of
3 credit information from which new credit reports are
4 produced.

5 (q) For purposes of this Section:

6 "Credit file" has the meaning ascribed to it in 15 U.S.C.
7 Sec. 1681a(g).

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

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

12 "Security freeze" means a notice placed in a consumer's
13 credit report, at the request of the consumer and subject to
14 certain exceptions, that prohibits the consumer reporting
15 agency from releasing the consumer's credit report or score
16 relating to an extension of credit, without the express
17 authorization of the consumer.

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

22 "Proper authority" means documentation that shows that a
23 parent, guardian, or agent has authority to act on behalf of a
24 minor or person with a disability. "Proper authority" includes
25 (1) an order issued by a court of law that shows that a
26 guardian has authority to act on behalf of a minor or person

1 with a disability, (2) a written, notarized statement signed by
2 a parent that expressly describes the authority of the parent
3 to act on behalf of the minor, or (3) a durable power of
4 attorney that complies with the Illinois Power of Attorney Act.

5 "Proper identification" means information generally deemed
6 sufficient to identify a person. Only if the consumer is unable
7 to reasonably identify himself or herself with the information
8 described above, may a consumer reporting agency require
9 additional information concerning the consumer's employment
10 and personal or family history in order to verify his or her
11 identity.

12 "Military service member" means a resident of Illinois who
13 is a member of any component of the U.S. Armed Forces or the
14 National Guard of any state, the District of Columbia, a
15 commonwealth, or a territory of the United States who has
16 entered any full-time training or duty for which the service
17 member was ordered to report by the President, the governor of
18 a state, commonwealth, or territory of the United States, or
19 another appropriate military authority.

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

22 (Source: P.A. 98-486, eff. 1-1-14; 98-756, eff. 7-16-14;
23 99-143, eff. 7-27-15; 99-373, eff. 1-1-16; 99-642, eff.
24 7-28-16.)