

HB4095



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4095

by Rep. Gregory Harris

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer reporting agency may not impose a charge on a consumer for placing a freeze, removing a freeze, or temporarily lifting a freeze. Makes corresponding changes. Effective immediately.

LRB100 14497 HEP 29281 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); and
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; 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. ~~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 (g) A consumer reporting agency shall develop a contact
19 method to receive and process a request from a consumer to
20 temporarily lift a freeze on a credit report pursuant to
21 subsection (f) in an expedited manner.

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

26 (h) A consumer reporting agency that receives a request

1 from a consumer to temporarily lift a freeze on a credit report
2 pursuant to subsection (f), shall comply with the request no
3 later than 3 business days after receiving the request.

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

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

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

11 If a consumer reporting agency intends to remove a freeze
12 upon a consumer's credit report pursuant to this subsection,
13 the consumer reporting agency shall notify the consumer in
14 writing prior to removing the freeze on the consumer's credit
15 report.

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

22 (k) If a consumer requests a security freeze, the credit
23 reporting agency shall disclose to the consumer the process of
24 placing and temporarily lifting a security freeze, and the
25 process for allowing access to information from the consumer's
26 credit report for a specific party or period of time while the

1 freeze is in place.

2 (1) A security freeze shall remain in place until the
3 consumer or person authorized under subsection (c) to act on
4 behalf of the minor or person with a disability who is the
5 subject of the security freeze requests, using a point of
6 contact designated by the consumer reporting agency, that the
7 security freeze be removed. A credit reporting agency shall
8 remove a security freeze within 3 business days of receiving a
9 request for removal from the consumer, who provides:

10 (1) proper identification; and

11 (2) the unique personal identification number or
12 password or similar device provided by the consumer
13 reporting agency. ~~and~~

14 ~~(3) A fee, if applicable.~~

15 (m) A consumer reporting agency shall require proper
16 identification of the person making a request to place or
17 remove a security freeze and may require proper identification
18 and proper authority from the person making the request to
19 place or remove a freeze on behalf of the person with a
20 disability or minor.

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

24 (1) A person or entity, or a subsidiary, affiliate, or
25 agent of that person or entity, or an assignee of a
26 financial obligation owing by the consumer to that person

1 or entity, or a prospective assignee of a financial
2 obligation owing by the consumer to that person or entity
3 in conjunction with the proposed purchase of the financial
4 obligation, with which the consumer has or had prior to
5 assignment an account or contract, including a demand
6 deposit account, or to whom the consumer issued a
7 negotiable instrument, for the purposes of reviewing the
8 account or collecting the financial obligation owing for
9 the account, contract, or negotiable instrument. For
10 purposes of this subsection, "reviewing the account"
11 includes activities related to account maintenance,
12 monitoring, credit line increases, and account upgrades
13 and enhancements.

14 (2) A subsidiary, affiliate, agent, assignee, or
15 prospective assignee of a person to whom access has been
16 granted under subsection (f) of this Section for purposes
17 of facilitating the extension of credit or other
18 permissible use.

19 (3) Any state or local agency, law enforcement agency,
20 trial court, or private collection agency acting pursuant
21 to a court order, warrant, or subpoena.

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

24 (5) The State or its agents or assigns acting to
25 investigate fraud.

26 (6) The Department of Revenue or its agents or assigns

1 acting to investigate or collect delinquent taxes or unpaid
2 court orders or to fulfill any of its other statutory
3 responsibilities.

4 (7) The use of credit information for the purposes of
5 prescreening as provided for by the federal Fair Credit
6 Reporting Act.

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

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

13 (10) Any person using the information in connection
14 with the underwriting of insurance.

15 (n-5) A consumer reporting agency may not impose a charge
16 on a consumer for placing a freeze, removing a freeze, or
17 temporarily lifting a freeze. ~~This Section does not prevent a~~
18 ~~consumer reporting agency from charging a fee of no more than~~
19 ~~\$10 to a consumer for each freeze, removal, or temporary lift~~
20 ~~of the freeze, regarding access to a consumer credit report,~~
21 ~~except that a consumer reporting agency may not charge a fee~~
22 ~~to: (i) a consumer 65 years of age or over for placement and~~
23 ~~removal of a freeze; (ii) a victim of identity theft who has~~
24 ~~submitted to the consumer reporting agency a valid copy of a~~
25 ~~police report, investigative report, or complaint that the~~
26 ~~consumer has filed with a law enforcement agency about unlawful~~

1 ~~use of his or her personal information by another person; or~~
2 ~~(iii) an active duty military service member who has submitted~~
3 ~~to the consumer reporting agency a copy of his or her orders~~
4 ~~calling the service member to military service and any orders~~
5 ~~further extending the service member's period of service if~~
6 ~~currently active.~~

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

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

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

1 negotiable instruments, electronic funds transfers, or
2 similar methods of payment.

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

10 (3) A consumer reporting agency that:

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

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

18 (q) For purposes of this Section:

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

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

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

1 relating to an extension of credit, without the express
2 authorization of the consumer.

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

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

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

23 ~~"Military service member" means a resident of Illinois who~~
24 ~~is a member of any component of the U.S. Armed Forces or the~~
25 ~~National Guard of any state, the District of Columbia, a~~
26 ~~commonwealth, or a territory of the United States who has~~

1 ~~entered any full-time training or duty for which the service~~
2 ~~member was ordered to report by the President, the governor of~~
3 ~~a state, commonwealth, or territory of the United States, or~~
4 ~~another appropriate military authority.~~

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

7 (Source: P.A. 98-486, eff. 1-1-14; 98-756, eff. 7-16-14;
8 99-143, eff. 7-27-15; 99-373, eff. 1-1-16; 99-642, eff.
9 7-28-16.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.