



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5177

by Rep. Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer reporting agency shall ensure that any information provided to a consumer via an Internet website, telephone, fax, or other electronic means is accurate, reflects the provisions of the listed Section, and includes: a link that is clearly posted on the home page of the consumer reporting agency's Internet website to information on how to place, temporarily lift, and remove a security freeze; and information on placing a security freeze and the designated address for submitting a request that is available via all telephone, fax, Internet, or other electronic means. Effective immediately.

LRB095 17474 WGH 43547 b

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 16G-15 of the Criminal Code of 1961, may not
23 lend money or extend credit without taking reasonable steps to

1 verify the consumer's identity and confirm that the application
2 for an extension of credit is not the result of financial
3 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. This subsection (c) does not prevent a consumer
9 reporting agency from advising a third party that a security
10 freeze is in effect with respect to the consumer's credit
11 report.

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

- 15 (1) a written request described in subsection (c);
16 (2) proper identification; and
17 (3) payment of a fee, if applicable.

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

26 (f) If the consumer wishes to allow his or her credit

1 report to be accessed for a specific party or period of time
2 while a freeze is in place, he or she shall contact the
3 consumer reporting agency using a point of contact designated
4 by the consumer reporting agency, request that the freeze be
5 temporarily lifted, and provide the following:

6 (1) Proper identification;

7 (2) The unique personal identification number or
8 password or similar device provided by the consumer
9 reporting agency;

10 (3) The proper information regarding the third party or
11 time period for which the report shall be available to
12 users of the credit report; and

13 (4) A fee, if applicable.

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

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

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

26 (i) A consumer reporting agency shall remove or temporarily

1 lift a freeze placed on a consumer's credit report only in the
2 following cases:

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

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

7 If a consumer reporting agency intends to remove a freeze
8 upon a consumer's credit report pursuant to this subsection,
9 the consumer reporting agency shall notify the consumer in
10 writing prior to removing the freeze on the consumer's credit
11 report.

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

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

24 (l) A security freeze shall remain in place until the
25 consumer requests, using a point of contact designated by the
26 consumer reporting agency, that the security freeze be removed.

1 A credit reporting agency shall remove a security freeze within
2 3 business days of receiving a request for removal from the
3 consumer, who provides:

4 (1) Proper identification;

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

8 (3) A fee, if applicable.

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

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

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

1 purposes of this subsection, "reviewing the account"
2 includes activities related to account maintenance,
3 monitoring, credit line increases, and account upgrades
4 and enhancements.

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

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

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

15 (5) The State or its agents or assigns acting to
16 investigate fraud.

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

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

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

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

4 (10) Any person using the information in connection
5 with the underwriting of insurance.

6 (n-5) This Section does not prevent a consumer reporting
7 agency from charging a fee of no more than \$10 to a consumer
8 for each freeze, removal, or temporary lift of the freeze,
9 regarding access to a consumer credit report, except that a
10 consumer reporting agency may not charge a fee to (i) a
11 consumer 65 years of age or over for placement and removal of a
12 freeze, or (ii) a victim of identity theft who has submitted to
13 the consumer reporting agency a valid copy of a police report,
14 investigative report, or complaint that the consumer has filed
15 with a law enforcement agency about unlawful use of his or her
16 personal information by another person.

17 (o) If a security freeze is in place, a consumer reporting
18 agency shall not change any of the following official
19 information in a credit report without sending a written
20 confirmation of the change to the consumer within 30 days of
21 the change being posted to the consumer's file: (i) name, (ii)
22 date of birth, (iii) Social Security number, and (iv) address.
23 Written confirmation is not required for technical
24 modifications of a consumer's official information, including
25 name and street abbreviations, complete spellings, or
26 transposition of numbers or letters. In the case of an address

1 change, the written confirmation shall be sent to both the new
2 address and to the former address.

3 (o-5) A consumer reporting agency shall ensure that any
4 information provided to a consumer via an Internet website,
5 telephone, fax, or other electronic means is accurate, reflects
6 the provisions of this Section in its entirety, and includes
7 the following:

8 (1) A link that is clearly posted on the home page of
9 the consumer reporting agency's Internet website to
10 information on how to place, temporarily lift, and remove a
11 security freeze.

12 (2) Information on placing a security freeze and the
13 designated address for submitting a request that is
14 available via all telephone, fax, Internet, or other
15 electronic means.

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

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

26 (2) A deposit account information service company,

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

7 (3) A consumer reporting agency that:

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

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

15 (q) For purposes of this Section:

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

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

20 "Security freeze" means a notice placed in a consumer's
21 credit report, at the request of the consumer and subject to
22 certain exceptions, that prohibits the consumer reporting
23 agency from releasing the consumer's credit report or score
24 relating to an extension of credit, without the express
25 authorization of the consumer.

26 "Extension of credit" does not include an increase in an

1 existing open-end credit plan, as defined in Regulation Z of
2 the Federal Reserve System (12 C.F.R. 226.2), or any change to
3 or review of an existing credit account.

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

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

13 (Source: P.A. 94-74, eff. 1-1-06; 94-799, eff. 1-1-07; 95-331,
14 eff. 8-21-07.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.