

**94TH GENERAL ASSEMBLY****State of Illinois****2005 and 2006****SB2310**

Introduced 1/12/2006, by Sen. John J. Cullerton

**SYNOPSIS AS INTRODUCED:**

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that any person who uses a consumer credit report in connection with the approval of credit based on the application for an extension of credit, and who has received notification of a police report filed with a consumer credit reporting agency that the applicant has been a victim of aggravated identity theft, may not lend money or extend credit without taking reasonable steps to verify the consumer's identity and confirm that the application for an extension of credit is not the result of financial identity theft or aggravated identity theft. Adds that a consumer may place a security freeze on his or her credit report by making a request directly to the consumer credit reporting agency through a secure electronic mail connection, if an electronic mail connection is provided by the consumer credit reporting agency. Provides that a consumer credit reporting agency shall not charge a fee for placing, removing, or removing for a specific party or period of time a security freeze on a credit report, if the consumer submits to the credit reporting agency a valid copy of a police report, investigative report, or complaint that the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. Allows the credit reporting agency to charge a fee of not more than \$10 to a consumer for each security freeze or temporary lift of a security freeze for a specific party and a fee of not more than \$8 for removal of a security freeze or temporary lift of a security freeze for a period of time. Provides that the consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within 5 (instead of 10) business days of placing the freeze on the account. Requires the Director of the Division of Financial Institutions in the Department of Financial and Professional Regulation to promulgate rules necessary to allow the use of electronic media to receive and process a request from a consumer to temporarily lift a security freeze as quickly as possible, with the goal of processing a request within 15 minutes of that request. Defines "consumer", "consumer credit reporting agency", "credit report", "Director", and "security freeze". Changes references from "credit reporting agency" to "consumer credit reporting agency". Effective January 1, 2007.

LRB094 16851 LCT 52130 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 credit reporting  
8 information used to extend consumers credit and security freeze  
9 on credit report for consumers ~~identity theft victims~~.

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 credit reporting  
21 agency that the applicant has been a victim of financial  
22 identity theft, as defined in Section 16G-15 of the Criminal  
23 Code of 1961, or aggravated identity theft, as defined in  
24 Section 16G-20 of the Criminal Code of 1961, may not lend money  
25 or extend credit without taking reasonable steps to verify the  
26 consumer's identity and confirm that the application for an  
27 extension of credit is not the result of financial identity  
28 theft or aggravated identity theft.

29 (c) A consumer ~~who has been the victim of identity theft~~  
30 may elect to place a security freeze on his or her credit  
31 report by:

32 (1) making a request in writing by certified mail to a

1 consumer credit reporting agency; or

2 (2) making a request directly to the consumer credit  
3 reporting agency through a secure electronic mail  
4 connection, if an electronic mail connection is provided by  
5 the consumer credit reporting agency. ~~with a valid copy of~~  
6 ~~a police report, investigative report, or complaint that~~  
7 ~~the consumer has filed with a law enforcement agency about~~  
8 ~~unlawful use of his or her personal information by another~~  
9 ~~person.~~

10 A consumer credit reporting agency shall not charge a fee  
11 for placing, removing, or removing for a specific party or  
12 period of time a security freeze on a credit report if the  
13 consumer submits to the credit reporting agency a valid copy of  
14 a police report, investigative report, or complaint that the  
15 consumer has filed with a law enforcement agency about unlawful  
16 use of his or her personal information by another person. The  
17 credit reporting agency may charge a fee of not more than \$10  
18 to a consumer for each security freeze or temporary lift of a  
19 security freeze for a specific party and a fee of not more than  
20 \$8 for removal of a security freeze or temporary lift of a  
21 security freeze for a period of time. A security freeze shall  
22 prohibit, subject to the exceptions under subsection (i) of  
23 this Section, the consumer credit reporting agency from  
24 releasing the consumer's credit report or any information from  
25 it without the express authorization of the consumer. When a  
26 security freeze is in place, information from a consumer's  
27 credit report shall not be released to a third party without  
28 prior express authorization from the consumer. This subsection  
29 does not prevent a credit reporting agency from advising a  
30 third party that a security freeze is in effect with respect to  
31 the consumer's credit report.

32 (d) A consumer credit reporting agency shall place a  
33 security freeze on a consumer's credit report no later than 5  
34 business days after receiving a written request from the  
35 consumer.

36 (e) The consumer credit reporting agency shall send a

1 written confirmation of the security freeze to the consumer  
2 within 5 ~~10~~ business days of placing the freeze and at the same  
3 time shall provide the consumer with a unique personal  
4 identification number or password, other than the consumer's  
5 Social Security number, to be used by the consumer when  
6 providing authorization for the release of his or her credit  
7 for a specific party or period of time.

8 (f) If the consumer wishes to allow his or her credit  
9 report to be accessed for a specific party or period of time  
10 while a freeze is in place, he or she shall contact the  
11 consumer credit reporting agency, request that the freeze be  
12 temporarily lifted, and provide the following:

13 (1) Proper identification;

14 (2) The unique personal identification number or  
15 password provided by the consumer credit reporting agency  
16 pursuant to subsection (e) of this Section; and

17 (3) The proper information regarding the third party  
18 who is to receive the credit report or the time period for  
19 which the report shall be available to users of the credit  
20 report.

21 (g) A consumer credit reporting agency shall ~~may~~ develop  
22 procedures involving the use of telephone, fax, the Internet,  
23 or other electronic media to receive and process a request from  
24 a consumer to temporarily lift a freeze on a credit report  
25 pursuant to subsection (f) in an expedited manner. The Director  
26 shall promulgate rules necessary to allow the use of electronic  
27 media to receive and process a request from a consumer to  
28 temporarily lift a security freeze pursuant to subsection (f)  
29 as quickly as possible, with the goal of processing a request  
30 within 15 minutes of that request.

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

36 (i) A consumer credit reporting agency shall remove or

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

3 (1) upon consumer request, pursuant to subsection (f)  
4 or subsection (l) 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 credit reporting agency intends to remove a  
8 freeze upon a consumer's credit report pursuant to this  
9 subsection, the consumer credit reporting agency shall notify  
10 the consumer in writing prior to removing the freeze on the  
11 consumer's credit 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 that the security freeze be removed. A  
26 consumer credit reporting agency shall remove a security freeze  
27 within 3 business days of receiving a request for removal from  
28 the consumer, who provides both of the following:

29 (1) Proper identification; and

30 (2) The unique personal identification number or  
31 password provided by the consumer credit reporting agency.

32 (m) A consumer credit reporting agency shall require proper  
33 identification of the person making a request to place or  
34 remove a security freeze.

35 (n) The provisions of subsections (c) through (m) of this  
36 Section do not apply to the use of a consumer credit report by

1 any of the following:

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

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

23 (3) Any state or local agency, law enforcement agency,  
24 trial court, or private collection agency acting pursuant  
25 to a court order, warrant, or subpoena.

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

28 (5) The relevant state agency or its agents or assigns  
29 acting to investigate Medicaid fraud.

30 (6) The Department of Revenue or its agents or assigns  
31 acting to investigate or collect delinquent taxes or unpaid  
32 court orders or to fulfill any of its other statutory  
33 responsibilities.

34 (7) The use of credit information for the purposes of  
35 prescreening as provided for by the federal Fair Credit  
36 Reporting Act.

1           (8) Any person or entity administering a credit file  
2 monitoring subscription service to which the consumer has  
3 subscribed.

4           (9) Any person or entity for the purpose of providing a  
5 consumer with a copy of his or her credit report upon the  
6 consumer's request.

7           (o) If a security freeze is in place, a consumer credit  
8 reporting 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 credit report, provided, however, that any  
21 person that is not required to place a security freeze on a  
22 credit report under paragraph (3) of this subsection, shall be  
23 subject to any security freeze placed on a credit report by  
24 another credit reporting agency from which it obtains  
25 information:

26           (1) A check services or fraud prevention services  
27 company, which issues reports on incidents of fraud or  
28 authorizations for the purpose of approving or processing  
29 negotiable instruments, electronic funds transfers, or  
30 similar methods of payment.

31           (2) A deposit account information service company,  
32 which issues reports regarding account closures due to  
33 fraud, substantial overdrafts, ATM abuse, or similar  
34 negative information regarding a consumer to inquiring  
35 banks or other financial institutions for use only in  
36 reviewing a consumer request for a deposit account at the

1           inquiring bank or financial institution.

2           (3) A credit reporting agency that:

3                 (A) acts only to resell credit information by  
4 assembling and merging information contained in a  
5 database of one or more credit reporting agencies; and

6                 (B) does not maintain a permanent database of  
7 credit information from which new credit reports are  
8 produced.

9           (q) For purposes of this Section:

10           "Consumer" means an individual who purchases products or  
11 services for personal use and not for manufacture or resale.

12           "Consumer credit reporting agency" means any person or  
13 entity that, for monetary fees, dues, or on a cooperative  
14 nonprofit basis, regularly engages, in whole or in part, in the  
15 practice of assembling or evaluating consumer credit  
16 information or other information on consumers for the purpose  
17 of furnishing credit reports to third parties, and that uses  
18 any means or facility for the purpose of preparing or  
19 furnishing credit reports.

20           "Credit report" means any written, oral, or other  
21 communication of any information by a consumer credit reporting  
22 agency bearing on a consumer's credit worthiness, credit  
23 standing, credit capacity, character, general reputation,  
24 personal characteristics, or mode of living that is used or  
25 expected to be used or collected in whole or in part for the  
26 purpose of serving as a factor in establishing the consumer's  
27 eligibility for:

28                 (1) credit or insurance to be used primarily for  
29 personal, family, or household purposes;

30                 (2) employment purposes; or

31                 (3) any other purpose authorized under this Act.

32           The term "credit report" does not include:

33                 (A) any: (i) report containing information solely on  
34 transactions or experiences between the consumer and the  
35 person or entity making the report; (ii) communication of  
36 that information among persons or entities related by

1 common ownership or affiliated by corporate control; or  
2 (iii) communication of other information among persons or  
3 entities related by common ownership or affiliated by  
4 corporate control, if it is clearly and conspicuously  
5 disclosed to the consumer that the information may be  
6 communicated among those persons or entities and the  
7 consumer is given the opportunity, before the time that the  
8 information is initially communicated, to direct that the  
9 information not be communicated among those persons or  
10 entities;

11 (B) any authorization or approval of a specific  
12 extension of credit directly or indirectly by the issuer of  
13 a credit card or similar device;

14 (C) any report in which a person or entity, who has  
15 been requested by a third party to make a specific  
16 extension of credit directly or indirectly to a consumer,  
17 conveys his decision with respect to that request, if the  
18 third party advises the consumer of the name and address of  
19 the person or entity to whom the request was made, and the  
20 person or entity makes the disclosures to the consumer  
21 required under the federal Fair Credit Reporting Act; or

22 (D) any communication excluded from the definition of  
23 consumer report pursuant to the federal Fair Credit  
24 Reporting Act.

25 "Director" means the Director of the Division of Financial  
26 Institutions in the Department of Financial and Professional  
27 Regulation.

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

32 "Proper identification" means information generally deemed  
33 sufficient to identify a person. Only if the consumer is unable  
34 to reasonably identify himself or herself with the information  
35 described above, may a consumer credit reporting agency require  
36 additional information concerning the consumer's employment

1 and personal or family history in order to verify his or her  
2 identity.

3 "Security freeze" means a notice placed in a consumer's  
4 credit report, at the request of the consumer and subject to  
5 certain exceptions, that prohibits the consumer credit  
6 reporting agency from releasing the report or any information  
7 from it without the express authorization of the consumer, but  
8 does not prevent a consumer credit reporting agency from  
9 advising a third party that a security freeze is in effect with  
10 respect to the credit report.

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

13 (Source: P.A. 93-195, eff. 1-1-04; 94-74, eff. 1-1-06.)

14 Section 99. Effective date. This Act takes effect January  
15 1, 2007.