



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4813

Introduced 1/12/2010, by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer reporting agency shall remove a security freeze on a consumer's credit report no later than 15 minutes after receiving a request from the consumer (i) through a secure electronic mail connection provided by the consumer reporting agency or (ii) by telephone, through the Internet, or, if provided by the consumer reporting agency, through other electronic media. Sets forth various circumstances under which a consumer reporting agency is not required to comply with a consumer's request within the 15-minute time frame, including the consumer's failure to provide proper identification, a natural disaster, operational interruptions, governmental actions, and computer maintenance. Effective immediately.

LRB096 16088 DRJ 31671 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 (d-5) A consumer reporting agency shall remove a security
19 freeze on a consumer's credit report no later than 15 minutes
20 after receiving a request from the consumer (i) through a
21 secure electronic mail connection provided by the consumer
22 reporting agency or (ii) by telephone, through the Internet,
23 or, if provided by the consumer reporting agency, through other
24 electronic media. A consumer reporting agency is not required
25 to comply with a consumer's request within the 15-minute time
26 frame, however, if:

1 (1) the consumer does not provide proper
2 identification; or

3 (2) the consumer reporting agency's ability to comply
4 with the request within the 15-minute time frame is
5 prevented by any of the following:

6 (A) An act of God, including fire, an earthquake, a
7 hurricane, a storm, or a similar natural disaster or
8 phenomenon.

9 (B) Unauthorized or illegal acts by a third party,
10 including terrorism, sabotage, riot, vandalism, labor
11 strikes or disputes disrupting operations, or similar
12 occurrences.

13 (C) An operational interruption, including an
14 electrical failure, an unanticipated delay in the
15 delivery of equipment or replacement parts, computer
16 hardware or software failures inhibiting response
17 time, or similar disruptions.

18 (D) A governmental action, including an emergency
19 order or regulation, a judicial action, a law
20 enforcement action, or a similar directive.

21 (E) Regularly scheduled maintenance of, or updates
22 to, the consumer reporting agency's computer systems,
23 if the maintenance activities or updates occur other
24 than during normal business hours.

25 (F) Commercially reasonable maintenance of, or
26 repairs to, the consumer reporting agency's computer

1 systems, if the maintenance activities or repairs are
2 unexpected or are necessitated by unanticipated
3 conditions or malfunctions.

4 (G) For a request made by telephone, receipt of a
5 request under this subsection (d-5) other than during
6 the consumer reporting agency's normal business hours,
7 including any extended business hours observed by the
8 consumer reporting agency. The exemption provided by
9 this subparagraph (G) does not apply to a request made
10 by a consumer through the Internet or other electronic
11 media. A consumer reporting agency must comply with a
12 request made by a consumer through the Internet or
13 other electronic media within the 15-minute time frame
14 set forth in this subsection (d-5), even if the request
15 is made at a time other than during the consumer
16 reporting agency's normal or extended business hours.

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

25 (f) If the consumer wishes to allow his or her credit
26 report to be accessed for a specific party or period of time

1 while a freeze is in place, he or she shall contact the
2 consumer reporting agency using a point of contact designated
3 by the consumer reporting agency, request that the freeze be
4 temporarily lifted, and provide the following:

5 (1) Proper identification;

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

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

12 (4) A fee, if applicable.

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

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

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

25 (i) A consumer reporting agency shall remove or temporarily
26 lift a freeze placed on a consumer's credit report only in the

1 following cases:

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

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

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

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

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

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

1 3 business days of receiving a request for removal from the
2 consumer, who provides:

3 (1) Proper identification;

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

7 (3) A fee, if applicable.

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

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

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

1 includes activities related to account maintenance,
2 monitoring, credit line increases, and account upgrades
3 and enhancements.

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

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

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

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

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

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

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

26 (9) Any person or entity for the purpose of providing a

1 consumer with a copy of his or her credit report or score
2 upon the consumer's request.

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

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

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

1 address and to the former address.

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

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

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

19 (3) A consumer reporting agency that:

20 (A) acts only to resell credit information by
21 assembling and merging information contained in a
22 database of one or more consumer reporting agencies;
23 and

24 (B) does not maintain a permanent database of
25 credit information from which new credit reports are
26 produced.

1 (q) For purposes of this Section:

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

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

6 "Security freeze" means a notice placed in a consumer's
7 credit report, at the request of the consumer and subject to
8 certain exceptions, that prohibits the consumer reporting
9 agency from releasing the consumer's credit report or score
10 relating to an extension of credit, without the express
11 authorization of the consumer.

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

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

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.