



Sen. John J. Cullerton

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09400SB2310sam001

LRB094 16851 LCT 55229 a

1 AMENDMENT TO SENATE BILL 2310

2 AMENDMENT NO. _____. Amend Senate Bill 2310 by replacing
3 everything after the enacting clause with the following:

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

1 or extend credit without taking reasonable steps to verify the
2 consumer's identity and confirm that the application for an
3 extension of credit is not the result of financial identity
4 theft or aggravated identity theft.

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

8 (1) making a request in writing by certified mail to a
9 consumer credit reporting agency; or

10 (2) making a request directly to the consumer credit
11 reporting agency through a secure electronic mail
12 connection, if an electronic mail connection is provided by
13 the consumer credit reporting agency. ~~with a valid copy of~~
14 ~~a police report, investigative report, or complaint that~~
15 ~~the consumer has filed with a law enforcement agency about~~
16 ~~unlawful use of his or her personal information by another~~
17 ~~person.~~

18 A consumer credit reporting agency shall not charge a fee
19 for placing, removing, or removing for a specific party or
20 period of time a security freeze on a credit report if the
21 consumer submits to the credit reporting agency a valid copy of
22 a police report, investigative report, or complaint that the
23 consumer has filed with a law enforcement agency about unlawful
24 use of his or her personal information by another person or if
25 the consumer is eligible for pharmaceutical assistance under
26 subsection (g) of Section 4 of the Senior Citizens and Disabled
27 Persons Property Tax Relief and Pharmaceutical Assistance Act.
28 The credit reporting agency may charge a fee of not more than
29 \$10 to a consumer for each security freeze or temporary lift of
30 a security freeze for a specific party and a fee of not more
31 than \$8 for removal of a security freeze or temporary lift of a
32 security freeze for a period of time. A security freeze shall
33 prohibit, subject to the exceptions under subsection (i) of
34 this Section, the consumer credit reporting agency from

1 releasing the consumer's credit report or any information from
2 it without the express authorization of the consumer. When a
3 security freeze is in place, information from a consumer's
4 credit report shall not be released to a third party without
5 prior express authorization from the consumer. This subsection
6 does not prevent a credit reporting agency from advising a
7 third party that a security freeze is in effect with respect to
8 the consumer's credit report.

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

13 (e) The consumer credit reporting agency shall send a
14 written confirmation of the security freeze to the consumer
15 within 5 ~~10~~ business days of placing the freeze and at the same
16 time shall provide the consumer with a unique personal
17 identification number or password, other than the consumer's
18 Social Security number, to be used by the consumer when
19 providing authorization for the release of his or her credit
20 for a specific party or period of time.

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

26 (1) Proper identification;

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

30 (3) The proper information regarding the third party
31 who is to receive the credit report or the time period for
32 which the report shall be available to users of the credit
33 report.

34 (g) A consumer credit reporting agency shall ~~may~~ develop

1 procedures involving the use of telephone, fax, the Internet,
2 or other electronic media to receive and process a request from
3 a consumer to temporarily lift a freeze on a credit report
4 pursuant to subsection (f) in an expedited manner. The Director
5 shall promulgate rules necessary to allow the use of electronic
6 media to receive and process a request from a consumer to
7 temporarily lift a security freeze pursuant to subsection (f)
8 as quickly as possible, with the goal of processing a request
9 within 15 minutes of that request.

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

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

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

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

22 If a consumer credit reporting agency intends to remove a
23 freeze upon a consumer's credit report pursuant to this
24 subsection, the consumer credit reporting agency shall notify
25 the consumer in writing prior to removing the freeze on the
26 consumer's credit report.

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

33 (k) If a consumer requests a security freeze, the credit
34 reporting agency shall disclose to the consumer the process of

1 placing and temporarily lifting a security freeze, and the
2 process for allowing access to information from the consumer's
3 credit report for a specific party or period of time while the
4 freeze is in place.

5 (l) A security freeze shall remain in place until the
6 consumer requests that the security freeze be removed. A
7 consumer credit reporting agency shall remove a security freeze
8 within 3 business days of receiving a request for removal from
9 the consumer, who provides both of the following:

10 (1) Proper identification; and

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

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

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

19 (1) A person or entity, or a subsidiary, affiliate, or
20 agent of that person or entity, or an assignee of a
21 financial obligation owing by the consumer to that person
22 or entity, or a prospective assignee of a financial
23 obligation owing by the consumer to that person or entity
24 in conjunction with the proposed purchase of the financial
25 obligation, with which the consumer has or had prior to
26 assignment an account or contract, including a demand
27 deposit account, or to whom the consumer issued a
28 negotiable instrument, for the purposes of reviewing the
29 account or collecting the financial obligation owing for
30 the account, contract, or negotiable instrument. For
31 purposes of this subsection, "reviewing the account"
32 includes activities related to account maintenance,
33 monitoring, credit line increases, and account upgrades
34 and enhancements.

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

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

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

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

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

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

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

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

26 (o) If a security freeze is in place, a consumer credit
27 reporting agency shall not change any of the following official
28 information in a credit report without sending a written
29 confirmation of the change to the consumer within 30 days of
30 the change being posted to the consumer's file: (i) name, (ii)
31 date of birth, (iii) Social Security number, and (iv) address.
32 Written confirmation is not required for technical
33 modifications of a consumer's official information, including
34 name and street abbreviations, complete spellings, or

1 transposition of numbers or letters. In the case of an address
2 change, the written confirmation shall be sent to both the new
3 address and to the former address.

4 (p) The following entities are not required to place a
5 security freeze in a credit report, provided, however, that any
6 person that is not required to place a security freeze on a
7 credit report under paragraph (3) of this subsection, shall be
8 subject to any security freeze placed on a credit report by
9 another credit reporting agency from which it obtains
10 information:

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 credit 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 credit reporting agencies; and

27 (B) does not maintain a permanent database of
28 credit information from which new credit reports are
29 produced.

30 (q) For purposes of this Section:

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

33 "Consumer credit reporting agency" means any person or
34 entity that, for monetary fees, dues, or on a cooperative

1 nonprofit basis, regularly engages, in whole or in part, in the
2 practice of assembling or evaluating consumer credit
3 information or other information on consumers for the purpose
4 of furnishing credit reports to third parties, and that uses
5 any means or facility for the purpose of preparing or
6 furnishing credit reports.

7 "Credit report" means any written, oral, or other
8 communication of any information by a consumer credit reporting
9 agency bearing on a consumer's credit worthiness, credit
10 standing, credit capacity, character, general reputation,
11 personal characteristics, or mode of living that is used or
12 expected to be used or collected in whole or in part for the
13 purpose of serving as a factor in establishing the consumer's
14 eligibility for:

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

17 (2) employment purposes; or

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

19 The term "credit report" does not include:

20 (A) any: (i) report containing information solely on
21 transactions or experiences between the consumer and the
22 person or entity making the report; (ii) communication of
23 that information among persons or entities related by
24 common ownership or affiliated by corporate control; or
25 (iii) communication of other information among persons or
26 entities related by common ownership or affiliated by
27 corporate control, if it is clearly and conspicuously
28 disclosed to the consumer that the information may be
29 communicated among those persons or entities and the
30 consumer is given the opportunity, before the time that the
31 information is initially communicated, to direct that the
32 information not be communicated among those persons or
33 entities;

34 (B) any authorization or approval of a specific

1 extension of credit directly or indirectly by the issuer of
2 a credit card or similar device;

3 (C) any report in which a person or entity, who has
4 been requested by a third party to make a specific
5 extension of credit directly or indirectly to a consumer,
6 conveys his decision with respect to that request, if the
7 third party advises the consumer of the name and address of
8 the person or entity to whom the request was made, and the
9 person or entity makes the disclosures to the consumer
10 required under the federal Fair Credit Reporting Act; or

11 (D) any communication excluded from the definition of
12 consumer report pursuant to the federal Fair Credit
13 Reporting Act.

14 "Director" means the Director of the Division of Financial
15 Institutions in the Department of Financial and Professional
16 Regulation.

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

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

28 "Security freeze" means a notice placed in a consumer's
29 credit report, at the request of the consumer and subject to
30 certain exceptions, that prohibits the consumer credit
31 reporting agency from releasing the report or any information
32 from it without the express authorization of the consumer, but
33 does not prevent a consumer credit reporting agency from
34 advising a third party that a security freeze is in effect with

1 respect to the credit report.

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

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

5 Section 99. Effective date. This Act takes effect July 1,
6 2007.".