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LRB094 16851 LCT 55855 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 identity theft victims.

10 (a) A credit card issuer who ~~who~~ mails an offer or  
11 solicitation to apply for a credit card and who receives a  
12 completed application in response to the offer or solicitation  
13 which lists an address that is not substantially the same as  
14 the 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  
24 verify the consumer's identity and confirm that the application

1 for an extension of credit is not the result of financial  
2 identity theft.

3 (c) A consumer who has been the victim of identity theft  
4 may place a security freeze on his or her credit report by  
5 making a request in writing by certified mail to a consumer  
6 credit reporting agency with a valid copy of a police report,  
7 investigative report, or complaint that the consumer has filed  
8 with a law enforcement agency about unlawful use of his or her  
9 personal information by another person. A credit reporting  
10 agency shall not charge a fee for placing, removing, or  
11 removing for a specific party or period of time a security  
12 freeze on a credit report. A security freeze shall prohibit,  
13 subject to the exceptions under subsection (i) of this Section,  
14 the credit reporting agency from releasing the consumer's  
15 credit report or any information from it without the express  
16 authorization of the consumer. When a security freeze is in  
17 place, information from a consumer's credit report shall not be  
18 released to a third party without prior express authorization  
19 from the consumer. This subsection does not prevent a credit  
20 reporting agency from advising a third party that a security  
21 freeze is in effect with respect to the consumer's credit  
22 report.

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

26 (e) The credit reporting agency shall send a written  
27 confirmation of the security freeze to the consumer within 10  
28 business days and shall provide the consumer with a unique  
29 personal identification number or password, other than the  
30 consumer's Social Security number, to be used by the consumer  
31 when providing authorization for the release of his or her  
32 credit for a specific party or period of time.

33 (f) If the consumer wishes to allow his or her credit  
34 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 credit reporting agency, request that the freeze be  
3 temporarily lifted, and provide the following:

4 (1) Proper identification;

5 (2) The unique personal identification number or  
6 password provided by the credit reporting agency; and

7 (3) The proper information regarding the third party or  
8 time period for which the report shall be available to  
9 users of the credit report.

10 (g) A credit reporting agency may develop procedures  
11 involving the use of telephone, fax, the Internet, or other  
12 electronic media to receive and process a request from a  
13 consumer to temporarily lift a freeze on a credit report  
14 pursuant to subsection (f) in an expedited manner.

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

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

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

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

26 If a consumer credit reporting agency intends to remove a  
27 freeze upon a consumer's credit report pursuant to this  
28 subsection, the consumer credit reporting agency shall notify  
29 the consumer in writing prior to removing the freeze on the  
30 consumer's credit report.

31 (j) If a third party requests access to a credit report on  
32 which a security freeze is in effect, and this request is in  
33 connection with an application for credit or any other use, and  
34 the consumer does not allow his or her credit report to be

1 accessed for that specific party or period of time, the third  
2 party may treat the application as incomplete.

3 (k) If a consumer requests a security freeze, the credit  
4 reporting agency shall disclose to the consumer the process of  
5 placing and temporarily lifting a security freeze, and the  
6 process for allowing access to information from the consumer's  
7 credit report for a specific party or period of time while the  
8 freeze is in place.

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

14 (1) Proper identification; and

15 (2) The unique personal identification number or  
16 password provided by the credit reporting agency.

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

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

23 (1) A person or entity, or a subsidiary, affiliate, or  
24 agent of that person or entity, or an assignee of a  
25 financial obligation owing by the consumer to that person  
26 or entity, or a prospective assignee of a financial  
27 obligation owing by the consumer to that person or entity  
28 in conjunction with the proposed purchase of the financial  
29 obligation, with which the consumer has or had prior to  
30 assignment an account or contract, including a demand  
31 deposit account, or to whom the consumer issued a  
32 negotiable instrument, for the purposes of reviewing the  
33 account or collecting the financial obligation owing for  
34 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 relevant state agency or its agents or assigns  
16 acting to investigate Medicaid 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 service to which the consumer has  
26 subscribed.

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

30 (o) If a security freeze is in place, a credit reporting  
31 agency shall not change any of the following official  
32 information in a credit report without sending a written  
33 confirmation of the change to the consumer within 30 days of  
34 the change being posted to the consumer's file: (i) name, (ii)

1 date of birth, (iii) Social Security number, and (iv) address.  
2 Written confirmation is not required for technical  
3 modifications of a consumer's official information, including  
4 name and street abbreviations, complete spellings, or  
5 transposition of numbers or letters. In the case of an address  
6 change, the written confirmation shall be sent to both the new  
7 address and to the former address.

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

15 (1) A check services or fraud prevention services  
16 company, which issues reports on incidents of fraud or  
17 authorizations for the purpose of approving or processing  
18 negotiable instruments, electronic funds transfers, or  
19 similar methods of payment.

20 (2) A deposit account information service company,  
21 which issues reports regarding account closures due to  
22 fraud, substantial overdrafts, ATM abuse, or similar  
23 negative information regarding a consumer to inquiring  
24 banks or other financial institutions for use only in  
25 reviewing a consumer request for a deposit account at the  
26 inquiring bank or financial institution.

27 (3) A credit reporting agency that:

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

31 (B) does not maintain a permanent database of  
32 credit information from which new credit reports are  
33 produced.

34 (q) For purposes of this Section:

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

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

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

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