

HB2785



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2785

by Rep. JoAnn D. Osmond

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a consumer reporting agency may not include in a consumer credit report any information based upon obligations incurred by a consumer during the time the consumer is a resident of a facility as defined under the Nursing Home Care Act. Prohibits the imposition of fees for a credit report security freeze or for the removal or temporary lift of a freeze.

LRB098 07411 JLS 37476 b

A BILL FOR

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 16-30 or 16G-15 of the Criminal Code of 1961
23 or the Criminal Code of 2012, may not lend money or extend

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

4 (b-5) A consumer reporting agency may not include in a
5 consumer credit report any information based upon obligations
6 incurred by a consumer during the time the consumer is a
7 resident of a facility as defined in Section 1-113 of the
8 Nursing Home Care Act.

9 (c) A consumer may request that a security freeze be placed
10 on his or her credit report by sending a request in writing by
11 certified mail to a consumer reporting agency at an address
12 designated by the consumer reporting agency to receive such
13 requests. This subsection (c) does not prevent a consumer
14 reporting agency from advising a third party that a security
15 freeze is in effect with respect to the consumer's credit
16 report.

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

- 20 (1) a written request described in subsection (c); and
21 (2) proper identification. ~~and~~
22 ~~(3) payment of a fee, if applicable.~~

23 (e) Upon placing the security freeze on the consumer's
24 credit report, the consumer reporting agency shall send to the
25 consumer within 10 business days a written confirmation of the
26 placement of the security freeze and a unique personal

1 identification number or password or similar device, other than
2 the consumer's Social Security number, to be used by the
3 consumer when providing authorization for the release of his or
4 her credit report for a specific party or period of time.

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

11 (1) Proper identification;

12 (2) The unique personal identification number or
13 password or similar device provided by the consumer
14 reporting agency; and

15 (3) The proper information regarding the third party or
16 time period for which the report shall be available to
17 users of the credit report. ~~and~~

18 ~~(4) A fee, if applicable.~~

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

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

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

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

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

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

12 If a consumer reporting agency intends to remove a freeze
13 upon a consumer's credit report pursuant to this subsection,
14 the consumer reporting agency shall notify the consumer in
15 writing prior to removing the freeze on the consumer's credit
16 report.

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

23 (k) If a consumer requests a security freeze, the credit
24 reporting agency shall disclose to the consumer the process of
25 placing and temporarily lifting a security freeze, and the
26 process for allowing access to information from the consumer's

1 credit report for a specific party or period of time while the
2 freeze is in place.

3 (1) A security freeze shall remain in place until the
4 consumer requests, using a point of contact designated by the
5 consumer reporting agency, that the security freeze be removed.
6 A credit reporting agency shall remove a security freeze within
7 3 business days of receiving a request for removal from the
8 consumer, who provides:

9 (1) Proper identification; and

10 (2) The unique personal identification number or
11 password or similar device provided by the consumer
12 reporting agency. ~~and~~

13 (3) (blank) ~~A fee, if applicable.~~

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

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

20 (1) A person or entity, or a subsidiary, affiliate, or
21 agent of that person or entity, or an assignee of a
22 financial obligation owing by the consumer to that person
23 or entity, or a prospective assignee of a financial
24 obligation owing by the consumer to that person or entity
25 in conjunction with the proposed purchase of the financial
26 obligation, with which the consumer has or had prior to

1 assignment an account or contract, including a demand
2 deposit account, or to whom the consumer issued a
3 negotiable instrument, for the purposes of reviewing the
4 account or collecting the financial obligation owing for
5 the account, contract, or negotiable instrument. For
6 purposes of this subsection, "reviewing the account"
7 includes activities related to account maintenance,
8 monitoring, credit line increases, and account upgrades
9 and enhancements.

10 (2) A subsidiary, affiliate, agent, assignee, or
11 prospective assignee of a person to whom access has been
12 granted under subsection (f) of this Section for purposes
13 of facilitating the extension of credit or other
14 permissible use.

15 (3) Any state or local agency, law enforcement agency,
16 trial court, or private collection agency acting pursuant
17 to a court order, warrant, or subpoena.

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

20 (5) The State or its agents or assigns acting to
21 investigate fraud.

22 (6) The Department of Revenue or its agents or assigns
23 acting to investigate or collect delinquent taxes or unpaid
24 court orders or to fulfill any of its other statutory
25 responsibilities.

26 (7) The use of credit information for the purposes of

1 prescreening as provided for by the federal Fair Credit
2 Reporting Act.

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

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

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

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

23 (o) If a security freeze is in place, a consumer reporting
24 agency shall not change any of the following official
25 information in a credit report without sending a written
26 confirmation of the change to the consumer within 30 days of

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

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

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

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

26 (3) A consumer reporting agency that:

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

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

8 (q) For purposes of this Section:

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

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

13 "Security freeze" means a notice placed in a consumer's
14 credit report, at the request of the consumer and subject to
15 certain exceptions, that prohibits the consumer reporting
16 agency from releasing the consumer's credit report or score
17 relating to an extension of credit, without the express
18 authorization of the consumer.

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

23 "Proper identification" means information generally deemed
24 sufficient to identify a person. Only if the consumer is unable
25 to reasonably identify himself or herself with the information
26 described above, may a consumer reporting agency require

1 additional information concerning the consumer's employment
2 and personal or family history in order to verify his or her
3 identity.

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

6 (Source: P.A. 97-597, eff. 1-1-12; 97-1150, eff. 1-25-13.)