

AMENDMENTS TO LB 190

Introduced by Banking, Commerce and Insurance

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. This act shall be known and may be cited as
4 the Credit Report Protection Act.

5 Sec. 2. For purposes of the Credit Report Protection Act:

6 (1) Consumer reporting agency means any person which,
7 for monetary fees, for dues, or on a cooperative nonprofit basis,
8 regularly engages in whole or in part in the practice of assembling
9 or evaluating consumer credit information or other information on
10 consumers for the purpose of furnishing consumer reports to third
11 parties and which uses any means or facility of interstate commerce
12 for the purpose of preparing or furnishing consumer reports;

13 (2) File, when used in connection with information on any
14 consumer, means all of the information on that consumer recorded
15 and retained by a consumer reporting agency regardless of how the
16 information is stored;

17 (3) Security freeze means a notice placed in a consumer's
18 file as provided in section 3 of this act that prohibits the
19 consumer reporting agency from releasing a credit report, or any
20 other information derived from the file, in connection with the
21 extension of credit or the opening of a new account, without the
22 express authorization of the consumer; and

23 (4) Victim of identity theft means a consumer who has a

1 copy of an official police report evidencing that the consumer has
2 alleged to be a victim of identity theft.

3 Sec. 3. A consumer, including a minor at the request of a
4 parent or custodial parent or guardian if appointed, may elect to
5 place a security freeze on his or her file by making a request by
6 certified mail to the consumer reporting agency.

7 Sec. 4. If a security freeze is in place with respect to
8 a consumer's file, the consumer reporting agency shall not release
9 a credit report or any other information derived from the file
10 to a third party without the prior express authorization of the
11 consumer. This section does not prevent a consumer reporting agency
12 from advising a third party that a security freeze is in effect
13 with respect to a consumer's file.

14 Sec. 5. (1) A consumer reporting agency shall place a
15 security freeze on a file no later than three business days after
16 receiving a request by certified mail.

17 (2) Until July 1, 2008, a consumer reporting agency
18 shall, within ten business days after receiving a request, send a
19 written confirmation of the security freeze to the consumer and
20 provide the consumer with a unique personal identification number
21 or password to be used by the consumer when providing authorization
22 for the release of a credit report or any other information derived
23 from his or her file for a specified period of time. Beginning July
24 1, 2008, a consumer reporting agency shall send such confirmation
25 and provide such identification number or password to the consumer
26 within five business days after receiving a request.

27 Sec. 6. (1) When a consumer requests a security freeze,

1 the consumer reporting agency shall disclose the process of placing
2 and temporarily lifting the security freeze, including the process
3 for allowing access to his or her credit report or any other
4 information derived from his or her file for a specified period of
5 time by temporarily lifting the security freeze.

6 (2) If a consumer wishes to allow his or her credit
7 report or any other information derived from his or her file to be
8 accessed for a specified period of time by temporarily lifting the
9 security freeze, the consumer shall contact the consumer reporting
10 agency, request that the freeze be temporarily lifted, and provide
11 the following:

12 (a) Proper identification, which means that information
13 generally deemed sufficient to identify a person. Only if the
14 consumer is unable to provide sufficiently self-identifying
15 information may a consumer reporting agency require additional
16 information concerning the consumer's employment and personal or
17 family history in order to verify the consumer's identity;

18 (b) The unique personal identification number or password
19 provided by the consumer reporting agency under section 5 of this
20 act; and

21 (c) The proper information regarding the specified time
22 period.

23 (3) (a) Until January 1, 2009, a consumer reporting agency
24 that receives a request from a consumer to temporarily lift a
25 security freeze on his or her file shall comply with the request no
26 later than three business days after receiving the request.

27 (b) A consumer reporting agency shall develop procedures

1 involving the use of a telephone, the Internet, or other electronic
2 media to receive and process a request from a consumer to
3 temporarily lift a security freeze on his or her file in an
4 expedited manner. By January 1, 2009, a consumer reporting agency
5 shall comply with a request to temporarily lift a security freeze
6 within fifteen minutes after receiving such request by telephone or
7 through a secure electronic method.

8 (4) A consumer reporting agency is not required to
9 temporarily lift a security freeze within the time provided in
10 subsection (3) of this section if:

11 (a) The consumer fails to meet the requirements of
12 subsection (2) of this section; or

13 (b) The consumer reporting agency's ability to
14 temporarily lift the security freeze within the time provided in
15 subsection (3) of this section is prevented by:

16 (i) An act of God, including fire, earthquake, hurricane,
17 storm, or similar natural disaster or phenomena;

18 (ii) An unauthorized or illegal act by a third party,
19 including terrorism, sabotage, riot, vandalism, labor strike or
20 dispute disrupting operations, or similar occurrence;

21 (iii) Operational interruption, including electrical
22 failure, unanticipated delay in equipment or replacement part
23 delivery, computer hardware or software failure inhibiting response
24 time, or similar disruption;

25 (iv) Governmental action, including an emergency order
26 or regulation, judicial or law enforcement action, or similar
27 directive;

1 (v) Regularly scheduled maintenance, during other than
2 normal business hours, of the consumer reporting agency's system or
3 updates to such system;

4 (vi) Commercially reasonable maintenance of, or repair
5 to, the consumer reporting agency's system that is unexpected or
6 unscheduled; or

7 (vii) Receipt of a removal request outside of normal
8 business hours.

9 For purposes of this subsection, normal business hours
10 means Sunday through Saturday, between the hours of 6:00 a.m. and
11 9:30 p.m., in the applicable time zone in this state.

12 Sec. 7. (1) A security freeze shall remain in place
13 until the consumer requests that the security freeze be removed
14 or temporarily lifted. A consumer reporting agency shall remove
15 or temporarily lift a security freeze only in the following
16 circumstances:

17 (a) Upon request by the consumer under section 6 or 8 of
18 this act; or

19 (b) When the file was placed on hold due to a material
20 misrepresentation of fact by the consumer.

21 (2) When a consumer reporting agency intends to release
22 a hold on a file under subdivision (1)(b) of this section, the
23 consumer reporting agency shall notify the consumer in writing
24 three business days prior to releasing the hold on the file.

25 Sec. 8. A consumer reporting agency shall remove a
26 security freeze within three business days after receiving a
27 request for removal from the consumer who provides both of the

1 following:

2 (1) Proper identification as specified in subdivision

3 (2) (a) of section 6 of this act; and

4 (2) The unique personal identification number or password

5 referred to in subdivision (2) (b) of section 6 of this act.

6 Sec. 9. (1) A consumer reporting agency may charge a fee
7 of five dollars for placing, temporarily lifting, or removing a
8 security freeze unless:

9 (a) The consumer is a minor; or

10 (b) (i) The consumer is a victim of identity theft; and

11 (ii) The consumer provides the consumer reporting agency
12 with a copy of an official police report documenting the identity
13 theft.

14 (2) A consumer reporting agency shall reissue the same or
15 a new personal identification number required under section 5 of
16 this act one time without charge and may charge a fee of no more
17 than five dollars for subsequent instances of loss of the personal
18 identification number.

19 Sec. 10. If a security freeze is in place, a consumer
20 reporting agency may not change any of the following official
21 information in a file without sending a written confirmation
22 of the change to the consumer within thirty days after the
23 change is made: Name, date of birth, social security number, and
24 address. In the case of an address change, the written confirmation
25 shall be sent to both the new address and the former address.
26 Written confirmation is not required for technical modifications
27 of a consumer's official information, including name and street

1 abbreviations, complete spellings, or transposition of numbers or
2 letters.

3 Sec. 11. (1) A consumer reporting agency may not suggest
4 or otherwise state or imply to a third party that a security freeze
5 on a consumer's file reflects a negative credit score, history,
6 report, or rating.

7 (2) If a third party requests access to a credit report
8 or any other information derived from a file in connection with
9 an application for credit or the opening of an account and the
10 consumer has placed a security freeze on his or her file and does
11 not allow his or her file to be accessed during that specified
12 period of time, the third party may treat the application as
13 incomplete.

14 Sec. 12. The Credit Report Protection Act does not
15 prohibit a consumer reporting agency from furnishing to a
16 governmental agency a consumer's name, address, former address,
17 place of employment, or former place of employment.

18 Sec. 13. The Credit Report Protection Act does not apply
19 to the use of a credit report or any information derived from the
20 file by any of the following:

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

1 account, or to whom the consumer issued a negotiable instrument,
2 for the purposes of reviewing the account or collecting the
3 financial obligation owing for the account, contract, or negotiable
4 instrument. For purposes of this subdivision, reviewing the account
5 includes activities related to account maintenance, monitoring,
6 credit line increases, and account upgrades and enhancements;

7 (2) A subsidiary, affiliate, agent, assignee, or
8 prospective assignee of a person to whom access has been granted
9 under section 6 of this act for purposes of facilitating the
10 extension of credit or other permissible use;

11 (3) Any federal, state, or local governmental entity,
12 including, but not limited to, a law enforcement agency, a court,
13 or an agent or assign of a law enforcement agency or court;

14 (4) A private collection agency acting under a court
15 order, warrant, or subpoena;

16 (5) Any person or entity for the purposes of prescreening
17 as provided for by the federal Fair Credit Reporting Act, 15 U.S.C.
18 1681, as such act existed on the effective date of this act;

19 (6) Any person or entity administering a credit
20 file monitoring subscription service to which the consumer has
21 subscribed;

22 (7) Any person or entity for the purpose of providing
23 a consumer with a copy of the consumer's credit report or any
24 other information derived from his or her file upon the consumer's
25 request; and

26 (8) Any person or entity for use in setting or adjusting
27 a rate, adjusting a claim, or underwriting for insurance purposes.

1 Sec. 14. The following entities are not consumer
2 reporting agencies for purposes of the Credit Report Protection Act
3 and are not required to place a security freeze on a file under
4 section 3 of this act:

5 (1) A check services or fraud prevention services company
6 that issues reports on incidents of fraud or authorizations for
7 the purpose of approving or processing negotiable instruments,
8 electronic funds transfers, or similar methods of payment;

9 (2) A deposit account information service company that
10 issues reports regarding account closures due to fraud, substantial
11 overdrafts, automatic teller machine abuse, or similar negative
12 information regarding a consumer, to inquiring banks or other
13 financial institutions for use only in reviewing a consumer
14 request for a deposit account at the inquiring bank or financial
15 institution; and

16 (3) A consumer reporting agency that acts only as
17 a reseller of credit information by assembling and merging
18 information contained in the data base of another consumer
19 reporting agency, or multiple consumer reporting agencies, and
20 does not maintain a permanent data base of credit information
21 from which new credit reports are produced. A consumer reporting
22 agency shall honor any security freeze placed on a file by another
23 consumer reporting agency.

24 Sec. 15. The Attorney General shall enforce the Credit
25 Report Protection Act. For purposes of the act, the Attorney
26 General may issue subpoenas, adopt and promulgate rules and
27 regulations, and seek injunctive relief and a monetary award

1 for civil penalties, attorney's fees, and costs. Any person who
2 violates the act shall be subject to a civil penalty of not more
3 than two thousand dollars for each violation. The Attorney General
4 may also seek and recover actual damages for each consumer injured
5 by a violation of the act.