



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM
815 ILCS 505/2QQ new

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that any person who uses a consumer credit report in connection with the approval of credit, may not lend money, extend credit, or complete the purchase, lease, or rental of goods or non-credit related services without taking reasonable steps to verify the consumer's identity. Provides that if a consumer places a statement with a security alert in his or her file requesting that his or her identity be verified by calling a specified telephone number, any person who receives that statement with the security alert in the consumer's file must take reasonable steps to verify his or her identity by contacting the consumer using the specified telephone number, prior to lending money, extending credit, or completing the purchase, lease, or rental of goods or non-credit related services, with certain exceptions. Provides that a consumer credit reporting agency is required to provide to a consumer information about security alerts and security freezes and their consequences. Prohibits a person or entity from publicly posting or displaying an individual's social security number or doing certain other acts that might compromise the security of an individual's social security number. Provides that a person or entity shall not encode or embed a social security number on a card or document, including a bar code, chip, or magnetic strip.

LRB093 18475 RXD 44189 b

1 AN ACT concerning business transactions.

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 and adding
6 Section 2QQ as follows:

7 (815 ILCS 505/2MM)

8 Sec. 2MM. Verification of accuracy of credit reporting
9 information used to extend consumers credit; security alert
10 notices.

11 (a) A credit card issuer who mails an offer or solicitation
12 to apply for a credit card and who receives a completed
13 application in response to the offer or solicitation which
14 lists an address that is not substantially the same as the
15 address on the offer or solicitation may not issue a credit
16 card based on that application until reasonable steps have been
17 taken to verify the applicant's change of address.

18 (b) Any person who uses a consumer credit report in
19 connection with the approval of credit based on the application
20 for an extension of credit, or with the purchase, lease, or
21 rental of goods or non-credit related services, and who has
22 received notification of a police report filed with a consumer
23 reporting agency that the applicant has been a victim of
24 financial identity theft, as defined in Section 16G-15 of the
25 Criminal Code of 1961, or has received notification of a
26 security alert, may not lend money or extend credit without
27 taking reasonable steps to verify the consumer's identity and
28 confirm that the application for an extension of credit is not
29 the result of financial identity theft. If the consumer has
30 placed a statement with a security alert in his or her file
31 requesting that identity be verified by calling a specified
32 telephone number, any person who receives that statement with

1 the security alert in a consumer's file shall take reasonable
2 steps to verify the identity of the consumer by contacting the
3 consumer using the specified telephone number prior to lending
4 money, extending credit, or completing the purchase, lease, or
5 rental of goods or non-credit related services. If a person
6 uses a consumer credit report to facilitate the extension of
7 credit or for another permissible purpose on behalf of a
8 subsidiary, affiliate, agent, assignee, or prospective
9 assignee, that person may verify a consumer's identity under
10 this subsection (b) instead of the subsidiary, affiliate,
11 agent, assignee, or prospective assignee.

12 (b-1) If a consumer uses a consumer credit reporting agency
13 he or she may elect to place a security alert in his or her
14 credit report by making a request in writing or by telephone to
15 a consumer credit report agency. A consumer credit reporting
16 agency shall:

17 (1) Notify each person requesting consumer credit
18 information with respect to a consumer of the existence of
19 a security alert in the credit report of that consumer,
20 regardless of whether a full credit report, credit score,
21 or summary report is requested.

22 (2) Maintain a toll-free telephone number to accept
23 security alert requests from consumers 24 hours a day,
24 seven days a week. The toll-free telephone number shall be
25 included in any written disclosure by a consumer credit
26 reporting agency to any consumer and shall be printed in a
27 clear and conspicuous manner.

28 (3) Place a security alert on a consumer's credit
29 report no later than 5 business days after receiving a
30 request from the consumer. The security alert shall remain
31 in place for at least 90 days, and a consumer shall have
32 the right to request a renewal of the security alert.

33 (4) Notify each consumer who has requested that a
34 security alert be placed on his or her consumer credit
35 report of the expiration date of the alert.

36 (5) Promptly disclose files maintained on a consumer as

1 follows:

2 (A) In person, if the consumer appears and
3 furnishes proper identification at the location where
4 the consumer credit reporting agency maintains trained
5 personnel.

6 (B) By mail, if the consumer makes a written
7 request with proper identification for a copy of the
8 file or a decoded written version of that file to be
9 sent to the consumer at a specified address. A
10 disclosure under this subparagraph (B) shall be
11 deposited in the United States mail, postage prepaid,
12 within 5 business days after the consumer's written
13 request for the disclosure is received by the consumer
14 credit reporting agency. Consumer credit reporting
15 agencies complying with requests for mailings under
16 this subparagraph (B) shall not be liable for
17 disclosures to third parties caused by mishandling of
18 mail after the mailings leave the consumer credit
19 reporting agencies.

20 (C) By telephone, if the consumer has made a
21 written request, with proper identification for
22 telephone disclosure.

23 Information in a consumer's file required to be provided in
24 writing under this paragraph (5) may also be disclosed in
25 another form if authorized by the consumer and if available
26 from the consumer credit reporting agency. A consumer may
27 request disclosure by telephone upon disclosure of proper
28 identification by the consumer, by electronic means if
29 available from the consumer credit reporting agency, or by any
30 other reasonable means that is available from the consumer
31 credit reporting agency.

32 (6) Provide a consumer with a written summary of all of
33 his or her rights with any written disclosure in the
34 following form:

35 "You have a right to obtain a copy of your credit file
36 from a consumer credit reporting agency. You may be charged

1 a reasonable fee not to exceed \$8. There is no fee, if you
2 have been turned down for credit, employment, insurance, or
3 a rental dwelling because of information in your credit
4 report within the preceding 60 days. The consumer credit
5 reporting agency must provide trained personnel to help you
6 interpret the information in your credit file.

7 You have a right to dispute inaccurate information by
8 contacting the consumer credit reporting agency directly.
9 However, neither you or any credit repair company or credit
10 service organization has the right to have accurate,
11 current, and verifiable information removed from your
12 credit report. Under the Federal Fair Credit Reporting Act,
13 the consumer credit reporting agency must remove accurate,
14 negative information from your report only if it is over 7
15 years old. Bankruptcy information can be reported for 10
16 years.

17 If you have notified a consumer credit reporting agency
18 in writing that you dispute the accuracy of information in
19 your file, the consumer credit reporting agency must then,
20 within 30 business days, reinvestigate and modify or remove
21 inaccurate information. The consumer credit reporting
22 agency may not charge a fee for this service. Any pertinent
23 information and copies of all documents you have concerning
24 an error should be given to the consumer credit reporting
25 agency.

26 If reinvestigation does not resolve the dispute to your
27 satisfaction, you may send a brief statement to the
28 consumer credit reporting agency to keep in your file,
29 explaining why you think the record is inaccurate. The
30 consumer credit reporting agency must include your
31 statement about disputed information in a report it issues
32 about you.

33 You have a right to receive a record of all inquiries
34 relating to a credit transaction initiated in 12 months
35 preceding your request. This record shall include the
36 recipients of any consumer credit report. You may request

1 in writing that the information contained in your file not
2 be provided to a third party for marketing purposes.

3 You have a right to place a "security alert" in your
4 credit report, which will warn anyone who receives
5 information in your credit report that your identity may
6 have been used without your consent. Recipients of your
7 credit report are required to take reasonable steps,
8 including contacting you at the telephone number you may
9 provide with your security alert, to verify your identity
10 prior to lending money, extending credit, or completing the
11 purchase, lease, or rental of goods or services. The
12 security alert may prevent credit, loans, and services from
13 being approved in your name without your consent. However,
14 you should be aware that taking advantage of this right may
15 delay or interfere with the timely approval of any
16 subsequent request or application you make regarding a new
17 loan, credit, mortgage, insurance, rental housing,
18 employment, investment, license, cellular phone,
19 utilities, digital signature, Internet credit card
20 transaction, or other services, including an extension of
21 credit at point of sale. If you place a security alert on
22 your credit report, you have a right to obtain a free copy
23 of your credit report at the time the 90-day security alert
24 period expires. A security alert may be requested by
25 calling the following toll-free telephone number: (Insert
26 applicable toll-free telephone number).

27 You have a right to place a "security freeze" on your
28 credit report, which will prohibit a consumer credit
29 reporting agency from releasing any information in your
30 credit report without your express authorization. A
31 security freeze must be requested in writing by certified
32 mail. The security freeze is designed to prevent credit,
33 loans, and services from being approved in your name
34 without your consent. However, you should be aware that
35 using a security freeze to take control over who gets
36 access to the personal and financial information in your

1 credit report may delay, interfere with, or prohibit the
2 timely approval of any subsequent request or application
3 you make regarding a new loan, credit, mortgage, insurance,
4 government services or payments, rental housing,
5 employment, investment, license, cellular phone,
6 utilities, digital signature, Internet credit card
7 transaction, or other services, including an extension of
8 credit at point of sale. When you place a security freeze
9 on your credit report, you will be provided a personal
10 identification number or password to use if you choose to
11 remove the freeze on your credit report or authorize the
12 release of your credit report for a specific party or
13 period of time after the freeze is in place. To provide
14 that authorization you must contact the consumer credit
15 reporting agency and provide all of the following:

16 (1) the personal identification number or
17 password;

18 (2) proper identification to verify your identity;
19 and

20 (3) the proper information regarding the third
21 party who is to receive the credit report or the period
22 of time for which the report shall be available.

23 A consumer credit reporting agency must authorize the
24 release of your credit report no later than 3 business days
25 after receiving the above information.

26 A security freeze does not apply to a person or entity,
27 or its affiliates, or collection agencies acting on behalf
28 of the person or entity with which you have an existing
29 account, that requests information in your credit report
30 for the purposes of reviewing or collecting the account.
31 Reviewing the account includes activities related to
32 account maintenance, monitoring, credit line increases,
33 and account upgrades and enhancements.

34 You have a right to bring civil action against anyone,
35 including a consumer credit reporting agency, who
36 improperly obtains access to a file, knowingly or willfully

1 misuses file data, or fails to correct inaccurate file
2 data.

3 If you are a victim of identity theft and provide to a
4 consumer credit reporting agency a copy of a valid police
5 report or a valid investigative report made by a Department
6 of Motor Vehicles investigator with peace officer status
7 describing your circumstances, the following shall apply:

8 (1) You have a right to have any information you
9 list on the report as allegedly fraudulent promptly
10 blocked so that the information cannot be reported. The
11 information will be unblocked only if (1) the
12 information you provide is a material
13 misrepresentation of the facts, (2) you agree that the
14 information is blocked in error, or (3) you knowingly
15 obtained possession of goods, services, or moneys as
16 result of the blocked transactions. If blocked
17 information is unblocked you will be promptly
18 notified.

19 (2) By the effective date of this amendatory Act of
20 the 93rd General Assembly, you have a right to receive,
21 free of charge and upon request, one copy of your
22 credit report each month for up to 12 consecutive
23 months."

24 (b-2) The following entities are not required to place a
25 security alert in a consumer credit report:

26 (1) A check services or fraud prevention services
27 company, which issues reports on incidents of fraud or
28 authorizations for the purpose of approving or
29 processing negotiable instruments, electronic funds
30 transfers, or similar methods of payments.

31 (2) A deposit account information service company,
32 which issues reports regarding account closures due to
33 fraud, substantial overdrafts, ATM abuse, or similar
34 negative information regarding a consumer, to
35 inquiring banks or other financial institutions for
36 use only in reviewing a consumer request for a deposit

1 account at the inquiring bank or financial
2 institution.

3 (b-3) The consumer has the right to request and receive all
4 of the following:

5 (1) Either a decoded written version of the file or a
6 written copy of the file, including all information in the
7 file at the time of the request, with an explanation of any
8 code used.

9 (2) A credit score for the consumer, the key factors,
10 and the related information.

11 (3) A record of all inquiries, by recipient, which
12 result in the provision of information concerning the
13 consumer in connection with a credit transaction that is
14 not initiated by the consumer and which were received by
15 the consumer credit reporting agency in the 12-month period
16 immediately preceding the request for disclosure.

17 (4) The recipients, of any consumer credit report on
18 the consumer which the consumer credit reporting agency has
19 furnished for employment purposes within the 12-month
20 period preceeding the request or any other purpose within
21 the 12-month period preceding the request.

22 (c) For purposes of this Section, "extension of credit"
23 does not include an increase in an existing open-end credit
24 plan, as defined in Regulation Z of the Federal Reserve System
25 (12 C.F.R. 226.2), or any change to or review of an existing
26 credit account.

27 (c-1) For purposes of this Section, "security alert" means
28 a notice placed in a consumer's credit report, at the request
29 of the consumer, which notifies a recipient of the credit
30 report that the consumer's identity may have been used without
31 the consumer's consent to fraudulently obtain goods or services
32 in the consumer's name.

33 (c-2) For purposes of this Section, "proper
34 identification" means that information generally deemed
35 sufficient to identify a person. Only if the consumer is unable
36 to reasonably identify himself or herself, may a consumer

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

4 (d) Any person who violates the provisions of this Section
5 ~~subsection (a) or subsection (b)~~ commits an unlawful practice
6 within the meaning of this Act. If a consumer reporting agency
7 recklessly, willfully, or intentionally fails to place a
8 security alert notice in a consumer's credit report it shall be
9 guilty of a business offense and subject to a fine in an amount
10 not to exceed \$2,500 plus the cost of reasonable attorney's
11 fees.

12 (Source: P.A. 93-195, eff. 1-1-04.)

13 (815 ILCS 505/200 new)

14 Sec. 200. Social security number protection.

15 (a) Notwithstanding subsection (b), any financial
16 institution may print the social security number of an
17 individual on any account statement or similar document mailed
18 to that individual, if the social security number is provided
19 in connection with a transaction governed by the rules of the
20 National Automated Clearing House Association, or a
21 transaction initiated by a federal governmental entity through
22 an automated clearing house network.

23 (b) A person or entity may not do any of the following:

24 (1) Publicly post or publicly display, in any manner,
25 an individual's social security number. "Publicly post" or
26 "publicly display" means to intentionally communicate or
27 otherwise make available to the general public.

28 (2) Print an individual's social security number on any
29 card required for the individual to access products or
30 services provided by the person or entity.

31 (3) Require an individual to transmit his or her social
32 security number over the Internet, unless the connection is
33 secure or the social security number is encrypted.

34 (4) Require an individual to use his or her social
35 security number to access an Internet Web site, unless a

1 password or unique personal identification number or other
2 authentication device is also required to access the
3 Internet Web site.

4 (5) Print an individual's social security number on any
5 materials that are mailed to the individual, unless State
6 or federal law requires the social security number to be on
7 the document to be mailed. Notwithstanding this subsection
8 (a), social security numbers may be included in
9 applications and forms sent by mail, including documents
10 sent as part of an application or enrollment process, or to
11 establish, amend or terminate an account, contract or
12 policy, or to confirm the accuracy of the social security
13 number.

14 (c) Except as provided in subsection (f), a person or
15 entity that has used, prior to the effective date of this
16 amendatory Act by the 93rd General Assembly, an individual's
17 social security number in a manner inconsistent with subsection
18 (b), may continue using that individual's social security
19 number in that manner on or after the effective date of this
20 amendatory Act by the 93rd General Assembly, and a State or
21 local agency that has used, prior to the effective date of this
22 amendatory Act by the 93rd General Assembly, an individual's
23 social security number in a manner inconsistent with subsection
24 (b), may continue using that individual's social security
25 number in that manner on or after the effective date of this
26 amendatory Act by the 93rd General Assembly, if all of the
27 following conditions are met:

28 (1) The use of the social security number is
29 continuous. If the use is stopped for any reason,
30 subsection (b) shall apply.

31 (2) The individual is provided an annual disclosure
32 that informs the individual that he or she has the right to
33 stop the use of his or her social security number in a
34 manner prohibited by subsection (b).

35 A written request by an individual to stop the use of his
36 or her social security number in a manner prohibited by

1 subsection (b) is implemented within 30 days of the receipt of
2 the request. There may not be a fee or charge for implementing
3 the request.

4 The person or entity may not deny services to an individual
5 because the individual makes a written request pursuant to this
6 subsection (c).

7 (d) This Section does not apply to documents that are
8 recorded or required to be open to the public.

9 (e) In the case of a health care service plan, a provider
10 of health care, an insurer or a pharmacy benefits manager, a
11 contractor, or the provision by any person or entity of
12 administrative or other services relative to health care or
13 insurance products or services, including third-party
14 administration or administrative services only, this Section
15 shall become operative in the following manner:

16 (1) By the effective date of this amendatory Act by
17 the 93rd General Assembly the entities listed in
18 subsection (e) shall comply with paragraphs (1), (3),
19 (4), and (5) of subsection (b), as these requirements
20 pertain to individual policyholders or individual
21 contract holders.

22 (2) By the effective date of this amendatory Act by
23 the 93rd General Assembly the entities listed in
24 subsection (1) shall comply with subsection (b) as
25 these requirements pertain to new individual
26 policyholders or new individual contract holders and
27 new groups.

28 (f) A health care service plan, a provider of health care,
29 an insurer or a pharmacy benefits manager, a contractor, or
30 another person or entity as described in subsection (e) shall
31 make reasonable efforts to cooperate, through systems testing
32 and other means, to ensure that the requirements of this
33 Section are implemented on or before the dates specified in
34 this Section.

35 (1) Notwithstanding paragraph (2) of this Section, the
36 Director of the Illinois Department of Public Aid, or the

1 Director of the Department of Insurance, and upon a
2 determination of good cause, may grant extensions not to
3 exceed 6 months, for compliance with the requirements of
4 this Section when requested by the health care service plan
5 provider or insurer. Any extension granted shall apply to
6 the health care service plan or insurer's affected
7 providers, pharmacy benefits manager, and contractors.

8 (2) If a federal law takes effect requiring the United
9 States Department of Health and Human Services to establish
10 a national unique patient health identifier program, a
11 provider of health care, a health care service plan, a
12 licensed health care professional, or a contractor, that
13 complies with the federal law shall be deemed in compliance
14 with this Section.

15 (g) A person or entity may not encode or embed a social
16 security number in or on a card or document, including, but not
17 limited to, using a bar code, chip, magnetic strip, or other
18 technology, in place of removing the social security number, as
19 required by this Section.