

HB3425



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3425

by Rep. Eddie Lee Jackson, Sr.

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2MM

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that consumer reporting agencies shall implement a credit freeze without cost to military personnel and veterans.

LRB099 08384 JLS 28536 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 (c) A consumer may request that a security freeze be placed
5 on his or her credit report by sending a request in writing by
6 certified mail to a consumer reporting agency at an address
7 designated by the consumer reporting agency to receive such
8 requests.

9 The following persons may request that a security freeze be
10 placed on the credit report of a disabled person:

11 (1) a guardian of the disabled person that is the
12 subject of the request, appointed under Article XIa of the
13 Probate Act of 1975; and

14 (2) an agent of the disabled person that is the subject
15 of the request, under a written durable power of attorney
16 that complies with the Illinois Power of Attorney Act.

17 The following persons may request that a security freeze
18 be placed on the credit report of a minor:

19 (1) a guardian of the minor that is the subject of the
20 request, appointed under Article XI of the Probate Act of
21 1975;

22 (2) a parent of the minor that is the subject of the
23 request; and

24 (3) a guardian appointed under the Juvenile Court Act
25 of 1987 for a minor under the age of 18 who is the subject
26 of the request or, with a court order authorizing the

1 guardian consent power, for a youth who is the subject of
2 the request who has attained the age of 18, but who is
3 under the age of 21.

4 This subsection (c) does not prevent a consumer reporting
5 agency from advising a third party that a security freeze is in
6 effect with respect to the consumer's credit report.

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

10 (1) a written request described in subsection (c);

11 (2) proper identification; and

12 (3) payment of a fee, if applicable.

13 (e) Upon placing the security freeze on the consumer's
14 credit report, the consumer reporting agency shall send to the
15 consumer within 10 business days a written confirmation of the
16 placement of the security freeze and a unique personal
17 identification number or password or similar device, other than
18 the consumer's Social Security number, to be used by the
19 consumer when providing authorization for the release of his or
20 her credit report 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 reporting agency using a point of contact designated
25 by the consumer reporting agency, request that the freeze be
26 temporarily lifted, and provide the following:

1 (1) Proper identification;

2 (2) The unique personal identification number or
3 password or similar device provided by the consumer
4 reporting agency;

5 (3) The proper information regarding the third party or
6 time period for which the report shall be available to
7 users of the credit report; and

8 (4) A fee, if applicable.

9 A security freeze for a minor may not be temporarily
10 lifted. This Section does not require a consumer reporting
11 agency to provide to a minor or a parent or guardian of a minor
12 on behalf of the minor a unique personal identification number,
13 password, or similar device provided by the consumer reporting
14 agency for the minor, or parent or guardian of the minor, to
15 use to authorize the consumer reporting agency to release
16 information from a minor.

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

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

25 (h) A consumer reporting agency that receives a request
26 from a consumer to temporarily lift a freeze on a credit report

1 pursuant to subsection (f), shall comply with the request no
2 later than 3 business days after receiving the request.

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

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

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

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

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

21 (k) If a consumer requests a security freeze, the credit
22 reporting agency shall disclose to the consumer the process of
23 placing and temporarily lifting a security freeze, and the
24 process for allowing access to information from the consumer's
25 credit report for a specific party or period of time while the
26 freeze is in place.

1 (1) A security freeze shall remain in place until the
2 consumer or person authorized under subsection (c) to act on
3 behalf of the minor or disabled person that is the subject of
4 the security freeze requests, using a point of contact
5 designated by the consumer reporting agency, that the security
6 freeze be removed. A credit reporting agency shall remove a
7 security freeze within 3 business days of receiving a request
8 for removal from the consumer, who provides:

9 (1) Proper identification;

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

13 (3) 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 and may require proper identification
17 and proper authority from the person making the request to
18 place or remove a freeze on behalf of the disabled person or
19 minor.

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

1 obligation owing by the consumer to that person or entity
2 in conjunction with the proposed purchase of the financial
3 obligation, with which the consumer has or had prior to
4 assignment an account or contract, including a demand
5 deposit account, or to whom the consumer issued a
6 negotiable instrument, for the purposes of reviewing the
7 account or collecting the financial obligation owing for
8 the account, contract, or negotiable instrument. For
9 purposes of this subsection, "reviewing the account"
10 includes activities related to account maintenance,
11 monitoring, credit line increases, and account upgrades
12 and enhancements.

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

18 (3) Any state or local agency, law enforcement agency,
19 trial court, or private collection agency acting pursuant
20 to a court order, warrant, or subpoena.

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

23 (5) The State or its agents or assigns acting to
24 investigate fraud.

25 (6) The Department of Revenue or its agents or assigns
26 acting to investigate or collect delinquent taxes or unpaid

1 court orders or to fulfill any of its other statutory
2 responsibilities.

3 (7) The use of credit information for the purposes of
4 prescreening as provided for by the federal Fair Credit
5 Reporting Act.

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

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

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

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

1 most recent Certificate of Release or Discharge from Active
2 Duty if a veteran or orders calling the service member to
3 military service and any orders further extending the service
4 member's period of service if currently active.

5 (o) If a security freeze is in place, a consumer reporting
6 agency shall not change any of the following official
7 information in a credit report without sending a written
8 confirmation of the change to the consumer within 30 days of
9 the change being posted to the consumer's file: (i) name, (ii)
10 date of birth, (iii) Social Security number, and (iv) address.
11 Written confirmation is not required for technical
12 modifications of a consumer's official information, including
13 name and street abbreviations, complete spellings, or
14 transposition of numbers or letters. In the case of an address
15 change, the written confirmation shall be sent to both the new
16 address and to the former address.

17 (p) The following entities are not required to place a
18 security freeze in a consumer report, however, pursuant to
19 paragraph (3) of this subsection, a consumer reporting agency
20 acting as a reseller shall honor any security freeze placed on
21 a consumer credit report by another consumer reporting agency:

22 (1) A check services or fraud prevention services
23 company, which issues reports on incidents of fraud or
24 authorizations for the purpose of approving or processing
25 negotiable instruments, electronic funds transfers, or
26 similar methods of payment.

1 (2) A deposit account information service company,
2 which issues reports regarding account closures due to
3 fraud, substantial overdrafts, ATM abuse, or similar
4 negative information regarding a consumer to inquiring
5 banks or other financial institutions for use only in
6 reviewing a consumer request for a deposit account at the
7 inquiring bank or financial institution.

8 (3) A consumer reporting agency that:

9 (A) acts only to resell credit information by
10 assembling and merging information contained in a
11 database of one or more consumer reporting agencies;
12 and

13 (B) does not maintain a permanent database of
14 credit information from which new credit reports are
15 produced.

16 (q) For purposes of this Section:

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

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

21 "Security freeze" means a notice placed in a consumer's
22 credit report, at the request of the consumer and subject to
23 certain exceptions, that prohibits the consumer reporting
24 agency from releasing the consumer's credit report or score
25 relating to an extension of credit, without the express
26 authorization of the consumer.

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 authority" means documentation that shows that a
6 parent, guardian, or agent has authority to act on behalf of a
7 minor or disabled person. "Proper authority" includes (1) an
8 order issued by a court of law that shows that a guardian has
9 authority to act on behalf of a minor or disabled person, (2) a
10 written, notarized statement signed by a parent that expressly
11 describes the authority of the parent to act on behalf of the
12 minor, or (3) a durable power of attorney that complies with
13 the Illinois Power of Attorney Act.

14 "Proper identification" means information generally deemed
15 sufficient to identify a person. Only if the consumer is unable
16 to reasonably identify himself or herself with the information
17 described above, may a consumer reporting agency require
18 additional information concerning the consumer's employment
19 and personal or family history in order to verify his or her
20 identity.

21 "Military service member" means a resident of Illinois who
22 is a member of any component of the U.S. Armed Forces or the
23 National Guard of any state, the District of Columbia, a
24 commonwealth, or a territory of the United States who has
25 entered any full-time training or duty for which the service
26 member was ordered to report by the President, the governor of

1 a state, commonwealth, or territory of the United States, or
2 another appropriate military authority.

3 "Veteran" means a person who (i) has been a member of the
4 armed forces of the United States or, while a citizen of the
5 United States, was a member of the armed forces of allies of
6 the United States in time of hostilities with a foreign country
7 and (ii) has served under one or more of the following
8 conditions: (1) the veteran served a total of at least 6
9 months; (2) the veteran served for the duration of hostilities
10 regardless of the length of the engagement; (3) the veteran was
11 discharged on the basis of hardship; or (4) the veteran was
12 released from active duty because of a service connected
13 disability and was discharged under honorable conditions.

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

16 (Source: P.A. 97-597, eff. 1-1-12; 97-1150, eff. 1-25-13;
17 98-486, eff. 1-1-14; 98-756, eff. 7-16-14.)