

No. 2006-163

AN ACT

SB 180

Providing for protection from identity theft, for security freezes, for procedures for access after imposition and removal of security freezes and for related matters.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Credit Reporting Agency Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Consumer.” An individual.

“Consumer report.” A written, oral or other communication of any information by a consumer reporting agency bearing on a consumer’s creditworthiness, credit standing or credit capacity.

“Consumer reporting agency.” Any person who, for monetary fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

“Security freeze.” A notice placed on a consumer report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer report without the express authorization of the consumer.

Section 3. Security freeze.

(a) Request for freeze.—

(1) A consumer may elect to place a security freeze on his consumer report by providing proper identification to a consumer reporting agency. The consumer may make the request directly to a consumer reporting agency:

(i) by certified mail using an address designated by the consumer reporting agency; or

(ii) through a secure Internet connection if the connection is made available by the consumer reporting agency.

(2) Each consumer reporting agency covered by this act shall have a toll-free telephone number available to allow a consumer to receive information about how to request a security freeze, which the consumer must return by certified mail.

(3) A consumer reporting agency shall place a security freeze on a consumer report no later than five business days after receiving a request for the security freeze from the consumer.

(4) The following entities are not required to place a security freeze in a consumer report:

(i) A credit reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another credit reporting agency or multiple credit reporting agencies and does not maintain a permanent database of credit information from which new credit reports are produced; however, a credit reporting agency acting as a reseller shall honor any security freeze placed on a credit report by another credit reporting agency.

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

(iii) A deposit account information service company which issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine (ATM) abuse or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

(b) Effect of security freeze.—Except as provided in subsection (e), when a security freeze is in place, information from a consumer report shall not be released to a third party without prior express authorization from the consumer. This subsection shall not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to a consumer report.

(c) Third-party request.—If a third party requests access to a consumer report on which a security freeze is in effect and the consumer does not allow his or her consumer report to be accessed for that specific party or for a period of time, the third party shall treat the application as incomplete.

(d) Duration of freeze.—A security freeze shall remain in place until the earlier of the date the consumer reporting agency receives a request from the consumer to remove the security freeze or until seven years from the date that the security freeze was put in place by the consumer reporting agency.

(e) Applicability of freeze.—Notwithstanding a security freeze, the following entities may receive a consumer report:

(1) A Federal, State or local government entity, including a law enforcement agency or court, or their agents or assigns.

(2) A private collection agency for the sole purpose of assisting in the collection of an existing debt of the consumer who is the subject of the consumer report requested.

(3) A person or entity or a subsidiary, affiliate or agent of that person or entity, or an assignee of a financial obligation owed by the consumer to

that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements.

(4) A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted under this section for the purposes of facilitating the extension of credit.

(5) A person, for the purposes of prescreening as provided by the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.).

(6) A consumer reporting agency for the purposes of providing a consumer with a copy of his own consumer report on his request.

(7) A child support enforcement agency.

(8) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer report by another consumer reporting agency.

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

(10) A deposit account information service company which issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine (ATM) abuse or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

(11) Any person or entity for use in setting or adjusting a rate, issuing or underwriting a policy, adjusting a claim or servicing a policy for underwriting for property and casualty insurance purposes.

(12) A person or entity administering a credit file monitoring subscription service or similar service to which the consumer has subscribed.

Section 4. Consumer reporting agency.

The consumer reporting agency shall, no later than ten business days after the date the agency receives a request from a consumer for a security freeze,

send the consumer a written confirmation that provides the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the access to his consumer report for a specific period of time or for a specific third party or removing the security freeze. In addition, the consumer reporting agency shall simultaneously provide to the consumer in writing notification of the process of removing a security freeze and the process of temporarily lifting a security freeze and the process for allowing access to information from the consumer report for a specific party or for a specific period while the security freeze is in effect.

Section 5. Personal identification.

A consumer may request in writing a replacement personal identification number or password. The request must comply with the requirements for requesting a security freeze under section 3. The consumer reporting agency shall, no later than ten business days after the date the agency receives the request for a replacement personal identification number or password, provide the consumer with a new, unique personal identification number or password to be used by the consumer instead of the number or password that was provided under section 4.

Section 6. Notification of freeze.

A consumer reporting agency shall notify a person who requests a consumer report if a security freeze is in effect for the consumer report requested.

Section 7. Temporary access or removal of security freeze.

(a) Request.—If the consumer wishes to allow his consumer report to be accessed for a specific period of time or by a specific third party while a security freeze is in place or to remove a security freeze, he shall be able to contact the consumer reporting agency by certified mail or by a toll-free telephone number which shall be provided by the consumer reporting agency and may be able to contact the consumer reporting agency through a secure Internet connection which may be established by the consumer reporting agency and request that the security freeze be temporarily lifted or removed and provide all of the following:

- (1) Proper identification.
- (2) The unique personal identification number or password provided by the consumer reporting agency pursuant to this act.
- (3) One of the following:
 - (i) The proper information regarding the time period for which the consumer report shall be available to any person.
 - (ii) The proper information regarding the third party who is to receive the consumer report.
 - (iii) A request that the security freeze be removed.

(b) Agency requirement.—A consumer reporting agency that receives a request from a consumer pursuant to subsection (a) shall comply with the request no later than three business days after receiving the request.

(c) Removal of security freeze.—A consumer reporting agency shall temporarily lift or remove a security freeze placed on a consumer report only in the following cases:

(1) Upon the consumer's request as provided for in this section.

(2) If the consumer report was frozen due to a material misrepresentation of fact by the consumer or other person. If a consumer reporting agency intends to remove a freeze upon a consumer report pursuant to this paragraph, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer report.

Section 8. Secure procedures.

In addition to the requirements of this act, a consumer reporting agency may develop secure procedures, including, but not limited to, the use of the telephone, facsimile, Internet or other electronic media, to receive and process a request from a consumer to place a security freeze, temporarily lift a security freeze or remove a security freeze on a consumer report pursuant to this act in an expedited manner.

Section 9. Fees.

(a) General rule.—A consumer reporting agency may impose a reasonable charge on a consumer for initially placing a security freeze on a consumer report. The amount of the charge may not exceed \$10. The charge to temporarily lift the security freeze may not exceed \$10 per request. At no time shall the consumer be charged for removing the freeze.

(b) Exceptions.—

(1) A consumer will not be charged by a consumer reporting agency for placing a security freeze or temporarily lifting a security freeze if the consumer is a victim of identity theft and provides, or has provided, the consumer reporting agency with a copy of a police report.

(2) A consumer will not be charged by a consumer reporting agency for placing a security freeze if the consumer is 65 years of age or older.

(c) Confirmation required.—If a security freeze is in place, a consumer reporting agency shall not change any of the following information regarding a consumer without sending a written confirmation of the change to the consumer within 30 days of the change being posted:

(1) Name.

(2) Date of birth.

(3) Social Security number.

(4) Address.

Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

Section 10. Civil relief.

A violation of this act shall be deemed to be an unfair or deceptive act or practice in violation of the act of December 17, 1968 (P.L.1224, No.387),

known as the Unfair Trade Practices and Consumer Protection Law. The Office of Attorney General shall have exclusive authority to bring an action under the Unfair Trade Practices and Consumer Protection Law for a violation of this act.

Section 11. Effective date.

This act shall take effect January 1, 2007.

APPROVED—The 29th day of November, A.D. 2006.

EDWARD G. RENDELL