



BILL SUMMARY

SF 2277 Identity Theft Credit Security Freeze

Status of Bill: House Calendar (passed Senate 48-0)
Committee: Commerce (passed 23-0)
Floor Manager: Rep. Doris Kelley
Research Analyst: Tom Patterson 281-5159 thomas.patterson@legis.state.ia.us

April 2, 2008

SF 2277 allows a victim of identity theft to request credit reporting agencies to freeze future release of their credit information, unless specifically authorized by that consumer.

Written Request to Consumer Credit Reporting Agency: The consumer submits a written request for a security freeze to consumer reporting agencies by certified mail, accompanied by proper identification and the applicable fee.

1. Within 5 business days of receipt, the reporting agency shall begin the security freeze.
2. Within 10 business days after the freeze starts, the reporting agency shall send written confirmation to the consumer, information on how to temporarily suspend the freeze, and an ID number or password to authorize suspension or removal of the freeze.

Temporary Suspension of Security Freeze: A consumer may request a temporarily suspension of the freeze to allow a reporting agency to release the consumer's credit report for a specific time period.

1. The reporting agency may develop procedures to expedite receipt and processing of requests, which may involve telephones, fax machines, the internet, or other electronic media.
2. The reporting agency shall comply within three business days of receipt of the written request, or within 15 minutes of receipt of a request by fax, the internet, or other electronic method, or through use of a telephone during normal business hours.
3. The consumer's request shall include all of the following:
 - Proper identification.
 - The personal ID number or password provided by the reporting agency.
 - Explicit instructions of the specific time period designated for suspension of the security freeze.
 - Payment of any fee, except a victim of identity theft who submitted, with the freeze request, a valid copy of a police report of the unlawful use of identity information by another person.
4. The reporting agency need not remove a freeze within the timeframes, if the consumer fails to meet the above requirements or failure to meet the time frames is due to:
 - Acts of God, including fire, earthquake, storm, or similar natural disaster or phenomenon.
 - Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrences.
 - Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption.

- Governmental action, including emergency orders or regulations, judicial law enforcement action, or similar directives.
- Regularly scheduled maintenance, during other than normal business hours, of the consumer reporting agency's systems, or updates to the consumer reporting agency's systems.
- Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.
- Receipt of a removal request outside of normal business hours.

Removal of the Security Freeze: A security freeze remains in effect until the consumer requests that it be removed. A consumer reporting agency shall remove a security freeze within three business days after receiving a request for removal that includes proper identification of the consumer, the consumer's personal ID number or password, and payment of the applicable fee.

Fees - Exemption for Identity Theft Victims.

1. A consumer reporting agency may charge up to \$10 for each freeze, removal, or reissuance of a personal ID number or password, and up to \$12 for each temporary suspension of a security freeze.
2. However, a fee cannot be charged to start, suspend, or remove a freeze to a victim of identity theft, if with the initial freeze request, the consumer submits a valid copy of the police report concerning the unlawful use of identification information by another person.

Credit Report Requests. If a third party requests a consumer credit report that is subject to a freeze, the reporting agency may say that a freeze is in effect. If the consumer does not expressly authorize that party to have access to the credit report with a temporary suspension of the freeze, that party shall not be given access to the credit report but it may treat a credit application as incomplete.

Misrepresentation by Consumer: A reporting agency may suspend or remove a security freeze upon a material misrepresentation of fact by the consumer, but it shall send notice to the consumer in writing prior to suspending or removing the security freeze.

A security freeze shall not apply to the following persons or entities, or their subsidiaries, affiliates, agents, or assignees:

1. A person with whom the consumer has or had an account, contract, or debtor-creditor relationship, but for purposes of reviewing the account or collecting a financial obligation, or to extend credit. "Reviewing the account" means activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.
2. A person to whom access has been granted under a temporary suspension of a freeze to facilitate the extension of credit or another permissible use.
3. A person acting pursuant to a court order, warrant, or subpoena.
4. Child support enforcement officials when investigating a child support case.
5. The Department of Human Services, its agents, or assignees acting to investigate Medicaid fraud.
6. The Department of Revenue or local taxing authority, including agents or assignees, investigating or collecting unpaid taxes or assessments, unpaid court orders, or fulfilling any other responsibilities.
7. A person using credit information for prescreening under the federal Fair Credit Reporting Act.
8. A person solely to provide a credit file monitoring service to which the consumer has subscribed.
9. A reporting agency providing a copy of a consumer's credit report as requested by the consumer.
10. A person's use of a consumer credit report in connection with the business of insurance.

Written Confirmation of Credit Report Changes: After a security freeze is in effect, a consumer reporting agency may post a name, birth date, Social Security number, or address change in a credit report, if written confirmation is sent to the consumer within 30 days of posting the change. For an address change, written confirmation shall be sent to both the new and former addresses. Written confirmation is not required to post spelling corrections of typographical errors.

Waiver Void: If a consumer waives the provisions of this chapter, it is contrary to public policy and is void and unenforceable.

Enforcement: A violation is a consumer fraud under Section 714.16, subsection 2, paragraph "a".

1. All powers conferred upon the Attorney General to enforce Section 714.16 are also conferred upon the Attorney General to enforce this Act, including but not limited to adopting rules, issuing subpoenas, and seeking injunctive relief and a monetary award for civil penalties, attorney fees, and costs.
2. In addition, the Attorney General may seek and recover the greater of \$500 or actual damages for each customer injured by a violation of this Act.