

Senate File 2277 - Enrolled

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SENATE FILE 2277

AN ACT

RELATING TO OFFENSES AGAINST IDENTITY BY ESTABLISHING A
PROCEDURE TO SECURE CREDIT INFORMATION AND PROVIDING A
PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 714F.1 DEFINITIONS.

For the purposes of this chapter, unless the context
otherwise requires:

1. "Consumer" means an individual who is a resident of
this state.

2. "Consumer credit report" means a consumer report, as
defined in 15 U.S.C. } 1681a, that is used or collected in
whole or in part for the purpose of serving as a factor in
establishing a consumer's eligibility for credit for personal,
family, or household purposes.

3. "Consumer reporting agency" means the same as defined
in 15 U.S.C. } 1681a(f). A consumer reporting agency does not
include any of the following:

a. A check service or fraud prevention service company
that reports on incidents of fraud or issues authorizations
for the purpose of approving or processing negotiable
instruments, electronic fund transfers, or similar methods of
payment.

b. A deposit account information service company that
issues reports regarding account closures due to fraud,
overdrafts, automated teller machine abuse, or similar
negative information regarding a consumer to inquiring
financial institutions for use only in reviewing the
consumer's request for a deposit account at the inquiring
financial institution.

c. Any person or entity engaged in the practice of
assembling and merging information contained in a database of
one or more consumer reporting agencies and does not maintain
a permanent database of credit information from which new
consumer reports are produced.

4. "Identification information" means as defined in
section 715A.8.

5. "Identity theft" means as used in section 715A.8.

6. "Normal business hours" means Sunday through Saturday,
between the hours of 6:00 a.m. and 9:30 p.m., central standard
time or central daylight saving time.

7. "Proper identification" means the same as defined in 15
U.S.C. } 1681h(a)(1).

8. "Security freeze" means a notice placed in a consumer
credit report, at the request of the consumer and subject to
certain exceptions, that prohibits a consumer reporting agency
from releasing the consumer credit report or score relating to
the extension of credit.

Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.

A consumer may submit by certified mail to a consumer
reporting agency a written request for a security freeze. The
consumer must submit proper identification and the applicable
fee with the request. Within five business days after
receiving the request, the consumer reporting agency shall
commence the security freeze. Within ten business days after
commencing the security freeze, the consumer reporting agency
shall send a written confirmation to the consumer of the
security freeze, a personal identification number or password,
other than the consumer's social security number, for the
consumer to use in authorizing the suspension or removal of
the security freeze, including information on how the security
freeze may be temporarily suspended.

Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.

1. A consumer may request that a security freeze be
temporarily suspended to allow the consumer reporting agency
to release the consumer credit report for a specific time
period. The consumer reporting agency may develop procedures
to expedite the receipt and processing of requests which may
involve the use of telephones, facsimile transmissions, the

3 4 internet, or other electronic media. The consumer reporting
3 5 agency shall comply with the request within three business
3 6 days after receiving the consumer's written request, or within
3 7 fifteen minutes after the consumer's request is received by
3 8 the consumer reporting agency through facsimile, the internet,
3 9 or other electronic contact method chosen by the consumer
3 10 reporting agency, or the use of a telephone, during normal
3 11 business hours. The consumer's request shall include all of
3 12 the following:

3 13 a. Proper identification.
3 14 b. The personal identification number or password provided
3 15 by the consumer reporting agency.
3 16 c. Explicit instructions of the specific time period
3 17 designated for suspension of the security freeze.
3 18 d. Payment of the applicable fee.

3 19 2. A consumer reporting agency need not remove a security
3 20 freeze within the timeframes provided in subsection 1 if the
3 21 consumer fails to meet the requirements of subsection 1, or
3 22 the ability of the consumer reporting agency to remove the
3 23 security freeze within fifteen minutes is prevented by one of
3 24 the following:

3 25 a. An act of God, including a fire, earthquake, hurricane,
3 26 storm, or similar natural disaster or phenomenon.

3 27 b. Unauthorized or illegal acts by a third party,
3 28 including terrorism, sabotage, riot, vandalism, labor strikes
3 29 or disputes disrupting operations, or similar occurrences.

3 30 c. Operational interruption, including electrical failure,
3 31 unanticipated delay in equipment or replacement part delivery,
3 32 computer hardware or software failures inhibiting response
3 33 time, or similar disruption.

3 34 d. Governmental action, including emergency orders or
3 35 regulations, judicial law enforcement action, or similar
4 1 directives.

4 2 e. Regularly scheduled maintenance, during other than
4 3 normal business hours, of the consumer reporting agency's
4 4 systems, or updates to the consumer reporting agency's
4 5 systems.

4 6 f. Commercially reasonable maintenance of, or repair to,
4 7 the consumer reporting agency's systems that is unexpected or
4 8 unscheduled.

4 9 g. Receipt of a removal request outside of normal business
4 10 hours.

4 11 Sec. 4. NEW SECTION. 714F.4 REMOVAL.

4 12 A security freeze remains in effect until the consumer
4 13 requests that the security freeze be removed. A consumer
4 14 reporting agency shall remove a security freeze within three
4 15 business days after receiving a request for removal that
4 16 includes proper identification of the consumer, the personal
4 17 identification number or password provided by the consumer
4 18 reporting agency, and payment of the applicable fee.

4 19 Sec. 5. NEW SECTION. 714F.5 FEES.

4 20 1. A consumer reporting agency shall not charge any fee to
4 21 a consumer who is the victim of identity theft for commencing
4 22 a security freeze, temporary suspension, or removal if with
4 23 the initial security freeze request, the consumer submits a
4 24 valid copy of the police report concerning the unlawful use of
4 25 identification information by another person.

4 26 2. A consumer reporting agency may charge a fee not to
4 27 exceed ten dollars to a consumer who is not the victim of
4 28 identity theft for each security freeze, removal, or for
4 29 reissuing a personal identification number or password if the
4 30 consumer fails to retain the original number. The consumer
4 31 reporting agency may charge a fee not to exceed twelve dollars
4 32 for each temporary suspension of a security freeze.

4 33 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

4 34 If a third party requests a consumer credit report that is
4 35 subject to a security freeze, the consumer reporting agency
5 1 may advise the third party that a security freeze is in
5 2 effect. If the consumer does not expressly authorize the
5 3 third party to have access to the consumer credit report
5 4 through a temporary suspension of the security freeze, the
5 5 third party shall not be given access to the consumer credit
5 6 report but may treat a credit application as incomplete.

5 7 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

5 8 A consumer reporting agency may suspend or remove a
5 9 security freeze upon a material misrepresentation of fact by
5 10 the consumer. However, the consumer reporting agency shall
5 11 send notice to the consumer in writing prior to suspending or
5 12 removing the security freeze.

5 13 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

5 14 A security freeze shall not apply to the following persons

5 15 or entities:

5 16 1. A person or person's subsidiary, affiliate, agent, or
5 17 assignee with which the consumer has or prior to assignment
5 18 had an account, contract, or debtor-creditor relationship for
5 19 the purposes of reviewing the account or collecting the
5 20 financial obligation owing for the account, contract, or debt,
5 21 or extending credit to a consumer with a prior or existing
5 22 account, contract, or debtor-creditor relationship.

5 23 "Reviewing the account" includes activities related to account
5 24 maintenance, monitoring, credit line increases, and account
5 25 upgrades and enhancements.

5 26 2. A subsidiary, affiliate, agent, assignee, or
5 27 prospective assignee of a person to whom access has been
5 28 granted under a temporary suspension for purposes of
5 29 facilitating the extension of credit or another permissible
5 30 use.

5 31 3. A person acting pursuant to a court order, warrant, or
5 32 subpoena.

5 33 4. Child support enforcement officials when investigating
5 34 a child support case pursuant to Title IV-D or Title XIX of
5 35 the federal Social Security Act.

6 1 5. The department of human services or its agents or
6 2 assignees acting to investigate fraud under the medical
6 3 assistance program.

6 4 6. The department of revenue or local taxing authorities;
6 5 or any of their agents or assignees, acting to investigate or
6 6 collect delinquent taxes or assessments, including interest
6 7 and penalties and unpaid court orders, or to fulfill any of
6 8 their other statutory or other responsibilities.

6 9 7. A person's use of credit information for prescreening
6 10 as provided by the federal Fair Credit Reporting Act.

6 11 8. A person for the sole purpose of providing a credit
6 12 file monitoring subscription service to which the consumer has
6 13 subscribed.

6 14 9. A consumer reporting agency for the sole purpose of
6 15 providing a customer with a copy of the consumer credit report
6 16 upon the consumer's request.

6 17 10. A person's use of a consumer credit report in
6 18 connection with the business of insurance.

6 19 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.

6 20 After a security freeze is in effect, a consumer reporting
6 21 agency may post a name, date of birth, social security number,
6 22 or address change in a consumer credit report provided written
6 23 confirmation is sent to the consumer within thirty days of
6 24 posting the change. For an address change, written
6 25 confirmation shall be sent to both the new and former
6 26 addresses. Written confirmation is not required to correct
6 27 spelling and typographical errors.

6 28 Sec. 10. NEW SECTION. 714F.10 WAIVER VOID.

6 29 A waiver by a consumer of the provisions of this chapter is
6 30 contrary to public policy, and is void and unenforceable.

6 31 Sec. 11. NEW SECTION. 714F.11 ENFORCEMENT.

6 32 A person who violates this chapter violates section 714.16,
6 33 subsection 2, paragraph "a". All powers conferred upon the
6 34 attorney general to accomplish the objectives and carry out
6 35 the duties prescribed in section 714.16 are also conferred
7 1 upon the attorney general to enforce this chapter, including
7 2 but not limited to the power to issue subpoenas, adopt rules,
7 3 and seek injunctive relief and a monetary award for civil
7 4 penalties, attorney fees, and costs. Additionally, the
7 5 attorney general may seek and recover the greater of five
7 6 hundred dollars or actual damages for each customer injured by
7 7 a violation of this chapter.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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7 19 I hereby certify that this bill originated in the Senate and
7 20 is known as Senate File 2277, Eighty-second General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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7 26 Approved _____, 2008
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7 29 _____
7 30 CHESTER J. CULVER
7 31 Governor