

House File 2242 - Introduced

HOUSE FILE _____
BY ZIRKELBACH and SMITH

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to offenses against identity by specifying a
2 procedure to secure credit information and providing a
3 penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5204HH 82
6 rn/rj/14

PAG LIN

1 1 Section 1. NEW SECTION. 714F.1 DEFINITIONS.
1 2 For the purposes of this chapter, unless the context
1 3 otherwise requires:
1 4 1. "Consumer" means an individual.
1 5 2. "Consumer report" means any information relating to the
1 6 creditworthiness of a consumer.
1 7 3. "Consumer reporting agency" means any person or entity
1 8 engaged in the practice of assembling or evaluating consumer
1 9 credit information for the purpose of furnishing a consumer
1 10 report to a third party. A consumer reporting agency shall
1 11 not include any of the following:
1 12 a. A check service or fraud prevention service company
1 13 that reports on incidents of fraud or issues authorizations
1 14 for the purpose of approving or processing negotiable
1 15 instruments, electronic fund transfers, or similar methods of
1 16 payment.
1 17 b. A deposit account information service company that
1 18 issues reports regarding account closures due to fraud,
1 19 overdrafts, automated teller machine abuse, or similar
1 20 negative information regarding a consumer to inquiring
1 21 financial institutions for use only in reviewing the
1 22 consumer's request for a deposit account at the inquiring
1 23 financial institution.
1 24 c. Any person or entity engaged in the practice of
1 25 assembling and merging information contained in a database of
1 26 one or more consumer reporting agencies and does not maintain
1 27 a permanent database of credit information from which new
1 28 consumer reports are produced.
1 29 4. "Identification information" means as defined in
1 30 section 715A.8.
1 31 5. "Identity theft" means as used in section 715A.8.
1 32 6. "Proper identification" means sufficient identification
1 33 information to ascertain that individual's identity.
1 34 7. "Security freeze" means a hold placed on a consumer
1 35 report that prevents a consumer reporting agency from
2 1 releasing a consumer report without first obtaining the
2 2 consumer's express authorization.
2 3 Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.
2 4 A consumer may submit by certified mail to a consumer
2 5 reporting agency a written request for a security freeze. The
2 6 consumer must submit proper identification with the request.
2 7 Within five business days after receiving the request, the
2 8 consumer reporting agency shall commence the security freeze.
2 9 Within ten business days after commencing the security freeze,
2 10 the consumer reporting agency shall send a written
2 11 confirmation to the consumer of the security freeze, a
2 12 personal identification number or password, other than the
2 13 consumer's social security number, for the consumer to use in
2 14 authorizing the suspension or removal of the security freeze,
2 15 including information on how the security freeze may be
2 16 temporarily suspended.
2 17 Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.
2 18 A consumer may request that a security freeze be
2 19 temporarily suspended to allow the consumer reporting agency

2 20 to release the consumer report for a specific time period or
2 21 to a specific third party. The consumer reporting agency may
2 22 develop procedures to expedite the receipt and processing of
2 23 requests which may involve the use of telephones, facsimile
2 24 transmissions, the internet, or other electronic media. The
2 25 consumer reporting agency shall comply with the request within
2 26 three business days after receiving the request. The
2 27 consumer's request shall include all of the following:

- 2 28 1. Proper identification.
- 2 29 2. The personal identification number or password provided
2 30 by the consumer reporting agency.
- 2 31 3. Explicit instructions of the specific time period or
2 32 specific third party designated for suspension of the security
2 33 freeze.

2 34 Sec. 4. NEW SECTION. 714F.4 REMOVAL.

2 35 A security freeze remains in effect until the consumer
3 1 requests that the security freeze be removed. A consumer
3 2 reporting agency shall remove a security freeze within three
3 3 business days after receiving a request for removal that
3 4 includes proper identification of the consumer and the
3 5 personal identification number or password provided by the
3 6 consumer reporting agency.

3 7 Sec. 5. NEW SECTION. 714F.5 FEES.

3 8 1. A consumer reporting agency shall not charge any fee to
3 9 a consumer who is the victim of identity theft for
3 10 effectuating a security freeze, temporary suspension, or
3 11 removal if with the initial security freeze request, the
3 12 consumer submits a valid copy of the police report,
3 13 investigative report, or complaint filed with a law
3 14 enforcement agency concerning the unlawful use of
3 15 identification information by another person.

3 16 2. A consumer reporting agency may charge a fee not to
3 17 exceed ten dollars to a consumer who is not the victim of
3 18 identity theft for each security freeze, removal, or for
3 19 reissuing a personal identification number or password if the
3 20 consumer fails to retain the original number. The consumer
3 21 reporting agency may charge a fee not to exceed twelve dollars
3 22 for each temporary suspension of a security freeze.

3 23 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

3 24 If a third party requests a consumer report that is subject
3 25 to a security freeze, the consumer reporting agency may advise
3 26 the third party that a security freeze is in effect. If the
3 27 consumer does not expressly authorize the third party to have
3 28 access to the consumer report through a temporary suspension
3 29 of the security freeze, the third party shall not be given
3 30 access to the consumer report but may treat a credit
3 31 application as incomplete.

3 32 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

3 33 A consumer reporting agency may suspend or remove a
3 34 security freeze upon a material misrepresentation of fact by
3 35 the consumer. However, the consumer reporting agency shall
4 1 notify the consumer in writing prior to suspending or removing
4 2 the security freeze.

4 3 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

4 4 A security freeze shall not apply to the following persons
4 5 or entities:

4 6 1. A person or person's subsidiary, affiliate, agent, or
4 7 assignee with which the consumer has or prior to assignment
4 8 had an account, contract, or debtor-creditor relationship for
4 9 the purposes of reviewing the account or collecting the
4 10 financial obligation owing for the account, contract, or debt,
4 11 or extending credit to a consumer with a prior or existing
4 12 account, contract, or debtor-creditor relationship.
4 13 "Reviewing the account" includes activities related to account
4 14 maintenance, monitoring, credit line increases, and account
4 15 upgrades and enhancements.

4 16 2. A subsidiary, affiliate, agent, assignee, or
4 17 prospective assignee of a person to whom access has been
4 18 granted under a temporary suspension for purposes of
4 19 facilitating the extension of credit or another permissible
4 20 use.

4 21 3. A person acting pursuant to a court order, warrant, or
4 22 subpoena.

4 23 4. Child support enforcement officials when investigating
4 24 a child support case pursuant to Title IV-D or Title XIX of
4 25 the federal Social Security Act.

4 26 5. The department of human services or its agents or
4 27 assignees acting to investigate fraud under the medical
4 28 assistance program.

4 29 6. The department of revenue or local taxing authorities;
4 30 or any of their agents or assignees, acting to investigate or

4 31 collect delinquent taxes or assessments, including interest
4 32 and penalties and unpaid court orders, or to fulfill any of
4 33 their other statutory or other responsibilities.
4 34 7. A person's use of credit information for prescreening
4 35 as provided by the federal Fair Credit Reporting Act.
5 1 8. A person for the sole purpose of providing a credit
5 2 file monitoring subscription service to which the consumer has
5 3 subscribed.
5 4 9. A consumer reporting agency for the sole purpose of
5 5 providing a consumer with a copy of the consumer's consumer
5 6 report upon the consumer's request.
5 7 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.
5 8 After a security freeze is in effect, a consumer reporting
5 9 agency may post a name, date of birth, social security number,
5 10 or address change in a consumer report provided written
5 11 confirmation is sent to the consumer within thirty days of
5 12 posting the change. For an address change, written
5 13 confirmation shall be sent to both the new and former
5 14 addresses. Written confirmation is not required to correct
5 15 spelling and typographical errors.
5 16 Sec. 10. NEW SECTION. 714F.10 APPLICATION.
5 17 An entity listed in section 714F.1, subsection 3, paragraph
5 18 "a", "b", or "c", shall be subject to a security freeze
5 19 commenced by a consumer reporting agency that obtains
5 20 information from such entity.
5 21 Sec. 11. NEW SECTION. 714F.11 WAIVER VOID.
5 22 A waiver by a consumer of the provisions of this chapter is
5 23 contrary to public policy, and is void and unenforceable.
5 24 Sec. 12. NEW SECTION. 714F.12 ENFORCEMENT.
5 25 A person who violates this chapter violates section 714.16,
5 26 subsection 2, paragraph "a". All powers conferred upon the
5 27 attorney general to accomplish the objectives and carry out
5 28 the duties prescribed in section 714.16 are also conferred
5 29 upon the attorney general to enforce this chapter, including
5 30 but not limited to the power to issue subpoenas, adopt rules,
5 31 and seek injunctive relief and a monetary award for civil
5 32 penalties, attorney fees, and costs. Additionally, the
5 33 attorney general may seek and recover the greater of five
5 34 hundred dollars or actual damages for each customer injured by
5 35 a violation of this chapter.

6 1 EXPLANATION

6 2 This bill concerns the protection of a person's identity.

6 3 The bill creates new Code chapter 714F that allows an
6 4 individual, the consumer, to place a hold on the individual's
6 5 consumer report to prevent a consumer reporting agency from
6 6 releasing any information relating to the individual's
6 7 creditworthiness without first obtaining the individual's
6 8 express authorization. This "security freeze" may be
6 9 temporarily suspended to allow a consumer reporting agency to
6 10 release a consumer report for a specific time period or to a
6 11 specific third party. A security freeze remains in effect
6 12 until the individual requests its removal.

6 13 The bill provides that a consumer reporting agency cannot
6 14 charge any fees to an individual who is the victim of identify
6 15 theft. Other individuals pay a fee up to \$10 per security
6 16 freeze, removal, or for reissuing a necessary password if the
6 17 individual fails to retain it, and up to \$12 per temporary
6 18 suspension request.

6 19 The bill addresses third parties that seek a consumer
6 20 report, misrepresentation of a material fact by an individual,
6 21 and lists exceptions to the security freeze, including a
6 22 person with a prior debtor-creditor relationship. The bill
6 23 provides for changes in the consumer report and makes certain
6 24 entities also subject to a security freeze.

6 25 The bill provides that a waiver of the protection offered
6 26 by the security freeze provision is void and unenforceable.

6 27 The bill contains enforcement provisions. A violation is
6 28 an offense under Code section 714.16 and is subject to
6 29 enforcement, including injunctive relief and money damages, by
6 30 the attorney general.

6 31 LSB 5204HH 82

6 32 rn/rj/14