

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 674

FINAL READING

(SECOND)

Introduced by Lathrop, 12; Rogert, 16; White, 8

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to consumer protection; to adopt the Credit
2 Report Protection Act; to prohibit certain uses of social
3 security numbers; to provide a penalty; and to provide
4 operative dates.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 15 of this act shall be known
2 and may be cited as the Credit Report Protection Act.

3 Sec. 2. For purposes of the Credit Report Protection Act:

4 (1) Consumer reporting agency means any person which,
5 for monetary fees, for dues, or on a cooperative nonprofit basis,
6 regularly engages in whole or in part in the practice of assembling
7 or evaluating consumer credit information or other information on
8 consumers for the purpose of furnishing consumer reports to third
9 parties and which uses any means or facility of interstate commerce
10 for the purpose of preparing or furnishing consumer reports;

11 (2) File, when used in connection with information on any
12 consumer, means all of the information on that consumer recorded
13 and retained by a consumer reporting agency regardless of how the
14 information is stored;

15 (3) Security freeze means a notice placed in a consumer's
16 file as provided in section 3 of this act that prohibits the
17 consumer reporting agency from releasing a credit report, or any
18 other information derived from the file, in connection with the
19 extension of credit or the opening of a new account, without the
20 express authorization of the consumer; and

21 (4) Victim of identity theft means a consumer who has a
22 copy of an official police report evidencing that the consumer has
23 alleged to be a victim of identity theft.

24 Sec. 3. A consumer, including a minor at the request of a
25 parent or custodial parent or guardian if appointed, may elect to

1 place a security freeze on his or her file by making a request by
2 certified mail to the consumer reporting agency.

3 Sec. 4. If a security freeze is in place with respect to
4 a consumer's file, the consumer reporting agency shall not release
5 a credit report or any other information derived from the file
6 to a third party without the prior express authorization of the
7 consumer. This section does not prevent a consumer reporting agency
8 from advising a third party that a security freeze is in effect
9 with respect to a consumer's file.

10 Sec. 5. (1) A consumer reporting agency shall place a
11 security freeze on a file no later than three business days after
12 receiving a request by certified mail.

13 (2) Until July 1, 2008, a consumer reporting agency
14 shall, within ten business days after receiving a request, send a
15 written confirmation of the security freeze to the consumer and
16 provide the consumer with a unique personal identification number
17 or password to be used by the consumer when providing authorization
18 for the release of a credit report or any other information derived
19 from his or her file for a specified period of time. Beginning July
20 1, 2008, a consumer reporting agency shall send such confirmation
21 and provide such identification number or password to the consumer
22 within five business days after receiving a request.

23 (3) The written confirmation required under subsection
24 (2) of this section shall include a warning which shall read as
25 follows: WARNING TO PERSONS SEEKING A CREDIT FREEZE AS PERMITTED

1 BY THE CREDIT REPORT PROTECTION ACT: YOU MAY BE DENIED CREDIT AS A
2 RESULT OF A FREEZE PLACED ON YOUR CREDIT.

3 Sec. 6. (1) When a consumer requests a security freeze,
4 the consumer reporting agency shall disclose the process of placing
5 and temporarily lifting the security freeze, including the process
6 for allowing access to his or her credit report or any other
7 information derived from his or her file for a specified period of
8 time by temporarily lifting the security freeze.

9 (2) If a consumer wishes to allow his or her credit
10 report or any other information derived from his or her file to be
11 accessed for a specified period of time by temporarily lifting the
12 security freeze, the consumer shall contact the consumer reporting
13 agency, request that the freeze be temporarily lifted, and provide
14 the following:

15 (a) Proper identification, which means that information
16 generally deemed sufficient to identify a person. Only if the
17 consumer is unable to provide sufficiently self-identifying
18 information may a consumer reporting agency require additional
19 information concerning the consumer's employment and personal or
20 family history in order to verify the consumer's identity;

21 (b) The unique personal identification number or password
22 provided by the consumer reporting agency under section 5 of this
23 act; and

24 (c) The proper information regarding the specified time
25 period.

1 (3) (a) Until January 1, 2009, a consumer reporting agency
2 that receives a request from a consumer to temporarily lift a
3 security freeze on his or her file shall comply with the request no
4 later than three business days after receiving the request.

5 (b) A consumer reporting agency shall develop procedures
6 involving the use of a telephone, the Internet, or other electronic
7 media to receive and process a request from a consumer to
8 temporarily lift a security freeze on his or her file in an
9 expedited manner. By January 1, 2009, a consumer reporting agency
10 shall comply with a request to temporarily lift a security freeze
11 within fifteen minutes after receiving such request by telephone or
12 through a secure electronic method.

13 (4) A consumer reporting agency is not required to
14 temporarily lift a security freeze within the time provided in
15 subsection (3) of this section if:

16 (a) The consumer fails to meet the requirements of
17 subsection (2) of this section; or

18 (b) The consumer reporting agency's ability to
19 temporarily lift the security freeze within the time provided in
20 subsection (3) of this section is prevented by:

21 (i) An act of God, including fire, earthquake, hurricane,
22 storm, or similar natural disaster or phenomena;

23 (ii) An unauthorized or illegal act by a third party,
24 including terrorism, sabotage, riot, vandalism, labor strike or
25 dispute disrupting operations, or similar occurrence;

1 (iii) Operational interruption, including electrical
2 failure, unanticipated delay in equipment or replacement part
3 delivery, computer hardware or software failure inhibiting response
4 time, or similar disruption;

5 (iv) Governmental action, including an emergency order
6 or regulation, judicial or law enforcement action, or similar
7 directive;

8 (v) Regularly scheduled maintenance, during other than
9 normal business hours, of the consumer reporting agency's system or
10 updates to such system;

11 (vi) Commercially reasonable maintenance of, or repair
12 to, the consumer reporting agency's system that is unexpected or
13 unscheduled; or

14 (vii) Receipt of a removal request outside of normal
15 business hours.

16 For purposes of this subsection, normal business hours
17 means Sunday through Saturday, between the hours of 6:00 a.m. and
18 9:30 p.m., in the applicable time zone in this state.

19 Sec. 7. (1) A security freeze shall remain in place,
20 subject to being put on hold or temporarily lifted as otherwise
21 provided in this section, until the earlier of the date that the
22 consumer reporting agency receives a request from the consumer to
23 remove the freeze under section 8 of this act or seven years after
24 the date the security freeze was put in place.

25 (2) A consumer reporting agency may place a hold on a

1 file due to a material misrepresentation of fact by the consumer.
2 When a consumer reporting agency intends to release a hold on a
3 file, the consumer reporting agency shall notify the consumer in
4 writing three business days prior to releasing the hold on the
5 file.

6 (3) A consumer reporting agency shall temporarily lift a
7 security freeze only upon request by the consumer under section 6
8 of this act.

9 (4) A consumer reporting agency shall remove a security
10 freeze upon the earlier of the date that the consumer reporting
11 agency receives a request from the consumer to remove the freeze
12 under section 8 of this act or seven years after the date the
13 security freeze was put in place.

14 Sec. 8. A consumer reporting agency shall remove a
15 security freeze within three business days after receiving a
16 request for removal from the consumer who provides both of the
17 following:

18 (1) Proper identification as specified in subdivision
19 (2) (a) of section 6 of this act; and
20 (2) The unique personal identification number or password
21 referred to in subdivision (2) (b) of section 6 of this act.

22 Sec. 9. (1) A consumer reporting agency may charge a fee
23 of fifteen dollars for placing a security freeze unless:
24 (a) The consumer is a minor; or
25 (b) (i) The consumer is a victim of identity theft; and

1 (ii) The consumer provides the consumer reporting agency
2 with a copy of an official police report documenting the identity
3 theft.

4 (2) A consumer reporting agency shall reissue the same
5 or a new personal identification number or password required under
6 section 5 of this act one time without charge and may charge a
7 fee of no more than five dollars for subsequent reissuance of the
8 personal identification number or password.

9 Sec. 10. If a security freeze is in place, a consumer
10 reporting agency may not change any of the following official
11 information in a file without sending a written confirmation
12 of the change to the consumer within thirty days after the
13 change is made: Name, date of birth, social security number, and
14 address. In the case of an address change, the written confirmation
15 shall be sent to both the new address and the former address.
16 Written confirmation is not required for technical modifications
17 of a consumer's official information, including name and street
18 abbreviations, complete spellings, or transposition of numbers or
19 letters.

20 Sec. 11. (1) A consumer reporting agency may not suggest
21 or otherwise state or imply to a third party that a security freeze
22 on a consumer's file reflects a negative credit score, history,
23 report, or rating.

24 (2) If a third party requests access to a credit report
25 or any other information derived from a file in connection with

1 an application for credit or the opening of an account and the
2 consumer has placed a security freeze on his or her file and does
3 not allow his or her file to be accessed during that specified
4 period of time, the third party may treat the application as
5 incomplete.

6 Sec. 12. The Credit Report Protection Act does not
7 prohibit a consumer reporting agency from furnishing to a
8 governmental agency a consumer's name, address, former address,
9 place of employment, or former place of employment.

10 Sec. 13. The Credit Report Protection Act does not apply
11 to the use of a credit report or any information derived from the
12 file by any of the following:

13 (1) A person or entity, a subsidiary, affiliate, or agent
14 of that person or entity, an assignee of a financial obligation
15 owing by the consumer to that person or entity, or a prospective
16 assignee of a financial obligation owing by the consumer to that
17 person or entity in conjunction with the proposed purchase of the
18 financial obligation, with which the consumer has or had prior
19 to assignment an account or contract, including a demand deposit
20 account, or to whom the consumer issued a negotiable instrument,
21 for the purposes of reviewing the account or collecting the
22 financial obligation owing for the account, contract, or negotiable
23 instrument. For purposes of this subdivision, reviewing the account
24 includes activities related to account maintenance, monitoring,
25 credit line increases, and account upgrades and enhancements;

1 (2) A subsidiary, affiliate, agent, assignee, or
2 prospective assignee of a person to whom access has been granted
3 under section 6 of this act for purposes of facilitating the
4 extension of credit or other permissible use;

5 (3) Any federal, state, or local governmental entity,
6 including, but not limited to, a law enforcement agency, a court,
7 or an agent or assignee of a law enforcement agency or court;

8 (4) A private collection agency acting under a court
9 order, warrant, or subpoena;

10 (5) Any person or entity for the purposes of prescreening
11 as provided for by the federal Fair Credit Reporting Act, 15 U.S.C.
12 1681, as such act existed on the operative date of this section;

13 (6) Any person or entity administering a credit
14 file monitoring subscription service to which the consumer has
15 subscribed;

16 (7) Any person or entity for the purpose of providing
17 a consumer with a copy of the consumer's credit report or any
18 other information derived from his or her file upon the consumer's
19 request; and

20 (8) Any person or entity for use in setting or adjusting
21 a rate, adjusting a claim, or underwriting for insurance purposes.

22 Sec. 14. The following entities are not consumer
23 reporting agencies for purposes of the Credit Report Protection Act
24 and are not required to place a security freeze on a file under
25 section 3 of this act:

1 (1) A check services or fraud prevention services company
2 that issues reports on incidents of fraud or authorizations for
3 the purpose of approving or processing negotiable instruments,
4 electronic funds transfers, or similar methods of payment;

5 (2) A deposit account information service company that
6 issues reports regarding account closures due to fraud, substantial
7 overdrafts, automatic teller machine abuse, or similar negative
8 information regarding a consumer, to inquiring banks or other
9 financial institutions for use only in reviewing a consumer
10 request for a deposit account at the inquiring bank or financial
11 institution; and

12 (3) A consumer reporting agency that acts only as
13 a reseller of credit information by assembling and merging
14 information contained in the data base of another consumer
15 reporting agency, or multiple consumer reporting agencies, and
16 does not maintain a permanent data base of credit information
17 from which new credit reports are produced. A consumer reporting
18 agency shall honor any security freeze placed on a file by another
19 consumer reporting agency.

20 Sec. 15. The Attorney General shall enforce the Credit
21 Report Protection Act. For purposes of the act, the Attorney
22 General may issue subpoenas, adopt and promulgate rules and
23 regulations, and seek injunctive relief and a monetary award
24 for civil penalties, attorney's fees, and costs. Any person who
25 violates the act shall be subject to a civil penalty of not more

1 than two thousand dollars for each violation. The Attorney General
2 may also seek and recover actual damages for each consumer injured
3 by a violation of the act.

4 Sec. 16. (1) For purposes of this section:

5 (a) Employer means a person which employs any individual
6 within this state as an employee;
7 (b) Employee means any individual permitted to work by
8 an employer pursuant to an employment relationship or who has
9 contracted to sell the goods of an employer and to be compensated
10 by commission. Services performed by an individual for an employer
11 shall be deemed to be employment, unless it is shown that (i)
12 such individual has been and will continue to be free from control
13 or direction over the performance of such services, both under
14 his or her contract of service and in fact, (ii) such service
15 is either outside the usual course of business for which such
16 service is performed or such service is performed outside of all
17 the places of business of the enterprise for which such service
18 is performed, and (iii) such individual is customarily engaged
19 in an independently established trade, occupation, profession, or
20 business. This subdivision is not intended to be a codification of
21 the common law and shall be considered complete as written;

22 (c) Person means the state or any individual,
23 partnership, limited liability company, association, joint-stock
24 company, trust, corporation, political subdivision, or personal
25 representative of the estate of a deceased individual, or the

1 receiver, trustee, or successor thereof;

2 (d) Temporary employee means an employee of a temporary
3 help firm assigned to work for the clients of such temporary help
4 firm; and

5 (e) Temporary help firm means a firm that hires its own
6 employees and assigns them to clients to support or supplement
7 the client's workforce in work situations such as employee
8 absences, temporary skill shortages, seasonal workloads, and
9 special assignments and projects.

10 (2) Except as otherwise provided in subsection (3) of
11 this section, an employer shall not:

12 (a) Publicly post or publicly display in any manner more
13 than the last four digits of an employee's social security number,
14 including intentional communication of more than the last four
15 digits of the social security number or otherwise making more than
16 the last four digits of the social security number available to the
17 general public or to an employee's coworkers;

18 (b) Require an employee to transmit more than the last
19 four digits of his or her social security number over the Internet
20 unless the connection is secure or the information is encrypted;

21 (c) Require an employee to use more than the last four
22 digits of his or her social security number to access an Internet
23 web site unless a password, unique personal identification number,
24 or other authentication device is also required to access the
25 Internet web site; or

1 (d) Require an employee to use more than the last four
2 digits of his or her social security number as an employee number
3 for any type of employment-related activity.

4 (3) (a) Except as otherwise provided in subdivision (b) of
5 this subsection, an employer shall be permitted to use more than
6 the last four digits of an employee's social security number only
7 for:

8 (i) Compliance with state or federal laws, rules, or
9 regulations;

10 (ii) Internal administrative purposes, including
11 provision of more than the last four digits of social security
12 numbers to third parties for such purposes as administration
13 of personnel benefit provisions for the employer and employment
14 screening and staffing; and

15 (iii) Commercial transactions freely and voluntarily
16 entered into by the employee with the employer for the purchase of
17 goods or services.

18 (b) The following uses for internal administrative
19 purposes described in subdivision (a)(ii) of this subsection shall
20 not be permitted:

21 (i) As an identification number for occupational
22 licensing;

23 (ii) As an identification number for drug-testing
24 purposes except when required by state or federal law;

25 (iii) As an identification number for company meetings;

1 (iv) In files with unrestricted access within the
2 company;

3 (v) In files accessible by any temporary employee unless
4 the temporary employee is bonded or insured under a blanket
5 corporate surety bond or equivalent commercial insurance; or

6 (vi) For posting any type of company information.

7 (4) An employer who violates this section is guilty of a
8 Class V misdemeanor.

9 (5) Evidence of a conviction under this section is
10 admissible in evidence at a civil trial as evidence of the
11 employer's negligence.

12 Sec. 17. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
13 12, 13, 14, 15, and 17 of this act become operative on September
14 1, 2007. Section 16 of this act becomes operative on September 1,
15 2008.