

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 190

Introduced By: Mines, 18

Read first time: January 9, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to consumer reporting agencies; to provide
2 requirements for a security freeze on a credit report; and
3 to provide powers and duties.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of this act:

2 (1) Security freeze means a notice placed in a consumer's
3 credit report in the records of a consumer reporting agency as
4 provided in section 2 of this act that prohibits the consumer
5 reporting agency from releasing the credit report, or any information
6 in it, in connection with the extension of credit or the opening of a
7 new account, without the express authorization of the consumer; and

8 (2) Victim of identity theft means a consumer who has a
9 copy of an official police report evidencing that the consumer has
10 alleged to be a victim of identity theft.

11 Sec. 2. (1) A consumer may elect to place a security freeze
12 on his or her credit report in the records of a consumer reporting
13 agency by making a request to the consumer reporting agency. The
14 consumer may make the request by:

15 (a) Certified mail;

16 (b) Telephone by providing certain personal identification
17 information required by the consumer reporting agency; or

18 (c) A secure electronic mail connection directly to the
19 consumer reporting agency if the connection is made available by the
20 consumer reporting agency.

21 (2) A consumer reporting agency shall make a secure
22 electronic mail connection available for requesting a security freeze
23 within one hundred eighty days after the effective date of this act.

24 (3) If a security freeze is in place with respect to a
25 consumer's credit report, the consumer reporting agency shall not
26 release the credit report or other information in the credit report
27 to a third party without the prior express authorization of the

1 consumer. This subsection does not prevent a consumer reporting
2 agency from advising a third party that a security freeze is in
3 effect with respect to the credit report.

4 Sec. 3. (1) A consumer reporting agency shall place a
5 security freeze on a credit report no later than three business days
6 after receiving a request by mail, telephone, or electronic mail as
7 provided in section 2 of this act, except that beginning one year
8 after the effective date of this act, a consumer reporting agency
9 shall place a security freeze on a credit report no later than one
10 business day after receiving a request by mail or telephone.

11 (2) Until July 1, 2008, a consumer reporting agency shall,
12 within ten business days after receiving a request, send a written
13 confirmation of the security freeze to the consumer and provide the
14 consumer with a unique personal identification number or password to
15 be used by the consumer when providing authorization for the release
16 of the consumer's credit report to a specific party or for a
17 specified period of time. Beginning July 1, 2008, a consumer
18 reporting agency shall send such confirmation and provide such
19 identification number or password to the consumer within five
20 business days after receiving a request.

21 Sec. 4. (1) When a consumer requests a security freeze, the
22 consumer reporting agency shall disclose the process of placing and
23 temporarily lifting the security freeze, including the process for
24 allowing access to his or her credit report or information in the
25 credit report by a specific party or for a specified period of time
26 by temporarily lifting the security freeze.

27 (2) If a consumer wishes to allow his or her credit report

1 to be accessed by a specific party or for a specified period of time
2 by temporarily lifting the security freeze, the consumer shall
3 contact the consumer reporting agency, request that the freeze be
4 temporarily lifted, and provide the following:

5 (a) Proper identification, which means that information
6 generally deemed sufficient to identify a person. Only if the consumer
7 is unable to provide sufficiently self-identifying information may a
8 consumer reporting agency require additional information concerning
9 the consumer's employment and personal or family history in order to
10 verify the consumer's identity;

11 (b) The unique personal identification number or password
12 provided by the consumer reporting agency under section 3 of this act;
13 and

14 (c) The proper information regarding the third party who is
15 to receive the credit report or the specific time period for which the
16 credit report is to be available.

17 (3) A consumer reporting agency that receives a request
18 from a consumer to temporarily lift a security freeze on his or her
19 credit report shall comply with the request no later than three
20 business days after receiving the request.

21 (4) A consumer reporting agency may develop procedures
22 involving the use of a telephone, fax machine, the Internet, or other
23 electronic media to receive and process a request from a consumer to
24 temporarily lift a security freeze on his or her credit report in an
25 expedited manner, with the goal of processing a request within
26 fifteen minutes after the request.

27 Sec. 5. (1) A security freeze shall remain in place until

1 the consumer requests that the security freeze be removed. A consumer
2 reporting agency shall remove or temporarily lift a security freeze
3 only in the following circumstances:

4 (a) Upon request by the consumer under section 4 or 6 of
5 this act; or

6 (b) When the credit report was placed on hold due to a
7 material misrepresentation of fact by the consumer.

8 (2) When a consumer reporting agency intends to release a
9 hold on a credit report under subdivision (1)(b) of this section, the
10 consumer reporting agency shall notify the consumer in writing three
11 business days prior to releasing the hold on the credit report.

12 Sec. 6. (1) Until one year after the effective date of this
13 act, a consumer reporting agency shall remove a security freeze within
14 three business days after receiving a request for removal from the
15 consumer who provides both of the following:

16 (a) Proper identification as specified in subdivision
17 (2)(a) of section 4 of this act; and

18 (b) The unique personal identification number or password
19 referred to in subdivision (2)(b) of section 4 of this act.

20 (2) Beginning one year after the effective date of this
21 act, a consumer reporting agency shall remove a security freeze within
22 one business day after receiving such a request.

23 Sec. 7. (1) A consumer reporting agency may charge a fee of
24 five dollars for placing, temporarily lifting, or removing a security
25 freeze unless:

26 (a) The consumer is a victim of identity theft; and

27 (b) The consumer provides the consumer reporting agency

1 with an official copy of a police report or a police case number
2 documenting the identity theft.

3 (2) A consumer reporting agency shall reissue the same or a
4 new personal identification number required under section 3 of this
5 act one time without charge and may charge a fee of no more than five
6 dollars for subsequent instances of loss of the personal
7 identification number.

8 Sec. 8. If a security freeze is in place, a consumer
9 reporting agency may not change any of the following official
10 information in a credit report without sending a written confirmation
11 of the change to the consumer within thirty days after the change is
12 made: Name, date of birth, social security number, and address. In
13 the case of an address change, the written confirmation shall be sent
14 to both the new address and the former address. Written confirmation
15 is not required for technical modifications of a consumer's official
16 information, including name and street abbreviations, complete
17 spellings, or transposition of numbers or letters.

18 Sec. 9. (1) A consumer reporting agency may not suggest or
19 otherwise state or imply to a third party that a security freeze on a
20 consumer's credit report reflects a negative credit score, history,
21 report, or rating.

22 (2) If a third party requests access to a credit report in
23 connection with an application for credit or the opening of an account
24 and the consumer has placed a security freeze on his or her credit
25 report and does not allow his or her credit report to be accessed for
26 that specific party or during that specified period of time, the
27 third party may treat the application as incomplete.

1 Sec. 10. This act does not prohibit a consumer reporting
2 agency from furnishing to a governmental agency a consumer's name,
3 address, former address, place of employment, or former place of
4 employment.

5 Sec. 11. This act does not apply to the use of a credit
6 report by any of the following:

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

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

24 (3) Any federal, state, or local governmental entity,
25 including, but not limited to, a law enforcement agency, a court, or
26 an agent or assign of a law enforcement agency or court;

27 (4) A private collection agency acting under a court order,

1 warrant, or subpoena;

2 (5) Any person or entity for the purposes of prescreening
3 as provided for by the federal Fair Credit Reporting Act;

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

6 (7) Any person or entity for the purpose of providing a
7 consumer with a copy of the consumer's credit report upon the
8 consumer's request; and

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

11 Sec. 12. The following entities are not consumer reporting
12 agencies for purposes of this act and are not required to place a
13 security freeze on a credit report under section 2 this act:

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

18 (2) A deposit account information service company that
19 issues reports regarding account closures due to fraud, substantial
20 overdrafts, automatic teller machine abuse, or similar negative
21 information regarding a consumer, to inquiring banks or other
22 financial institutions for use only in reviewing a consumer request
23 for a deposit account at the inquiring bank or financial institution;
24 and

25 (3) A consumer reporting agency that acts only as a
26 reseller of credit information by assembling and merging information
27 contained in the data base of another consumer reporting agency, or

1 multiple consumer reporting agencies, and does not maintain a
2 permanent data base of credit information from which new credit
3 reports are produced. A consumer reporting agency shall honor any
4 security freeze placed on a credit report by another consumer
5 reporting agency.