

SENATE NO. 232

AN ACT RELATIVE TO IDENTITY THEFT AND CONSUMER REPORT SECURITY FREEZES

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Section 50 of chapter 93 of the General Laws, as appearing in the 2004 Official Edition,
2 is hereby amended by adding the following definitions:-

3 “Identity theft report”, means a report that alleges identity theft; is a copy of an official, valid report
4 filed by a consumer with an appropriate Federal, State, or local law enforcement agency; and the filing
5 of which subjects the person filing the report to criminal penalties relating to the filing of false
6 information.

7 “Personal identification number or password”, means a unique and random number or combination of
8 numbers and letters, but shall not contain a consumer’s social security number or other personal
9 identifying information.

10 “Proper identification”, means that information generally deemed sufficient to identify a person. This
11 does not include information concerning the consumer’s employment and personal or family history

12 unless the consumer is unable to reasonably identify himself or herself with the information described
13 above.

14 “Security freeze”, means a notice placed in a consumer’s report, at the request of the consumer and
15 subject to certain exceptions, that prohibits the consumer reporting agency from releasing the
16 consumer’s credit report or any information from it without the express authorization of the consumer.

17 SECTION 2. Said chapter 93 is hereby amended by inserting after section 62 the following section:-

18 Section 62A. Consumer election to place security freeze on consumer report

19 (a) A consumer may elect to place a security freeze on his or her consumer report by making a request
20 in writing by mail to a consumer reporting agency. If a security freeze is in place, information from a
21 consumer’s report may not be released to a third party without prior express authorization from the
22 consumer. This provision does not prevent a consumer reporting agency from advising a third party
23 that a security freeze is in effect with respect to the consumer’s report.

24 (b) A consumer reporting agency shall:

25 (1) place a security freeze on a consumer’s report no later than twenty-four (24) hours after receiving
26 a written request from the consumer;

27 (2) within five (5) business days after receiving a written request from the consumer to place a
28 security freeze on the consumer’s report:

29 (i) send a written confirmation of the security freeze to the consumer;

30 (ii) provide the consumer with a personal identification number or password to be used by the
31 consumer when providing authorization for the removal of the security freeze, or the lift or release of
32 the security freeze for a specific party or period of time; and

33 (iii) require proper identification of the person making a request to place, temporarily lift or release, or
34 remove a security freeze.

35 (c) A security freeze shall remain in place until the consumer requests that the security freeze be
36 removed. A consumer reporting agency shall remove a security freeze within twenty-four (24) hours
37 of receiving a request for removal from the consumer, who provides both of the following:

38 (1) Proper identification; and

39 (2) The personal identification number or password provided by the credit reporting agency pursuant
40 to subdivision (b)(2)(ii).

41 (d) If the consumer wishes to allow his or her consumer report to be accessed by a specific party while
42 a freeze is in place or lift the freeze for a period of time, he or she shall:

43 (1) contact the consumer reporting agency and request that the freeze be temporarily lifted;

44 (2) provide the proper identification and unique personal identification number or password provided
45 by the consumer reporting agency as set forth in (c) (1) and (2) above; and

46 (3) provide the proper information regarding the third party who is to receive the consumer report or
47 the time period for which the report shall be available to users of the consumer report.

48 A consumer reporting agency that receives a request from a consumer to temporarily lift or release a
49 freeze on a credit report pursuant to this provision, shall comply with the request no later than twenty-
50 four (24) hours after receiving the request.

51 (e) If a consumer requests a security freeze, the consumer reporting agency shall disclose the process
52 of placing and removing a freeze, and the process for allowing access to information from the
53 consumer's report for a specific party or period of time while the freeze is in place.

54 (f) A consumer reporting agency may develop procedures involving the use of a toll-free telephone
55 number, fax, the Internet, or other electronic media to receive and process a request from a consumer
56 to remove a security freeze or temporarily lift a security freeze in an expedited manner.

57 (g) A consumer reporting agency shall remove or temporarily lift a security freeze only in the
58 following cases:

59 (1) Upon consumer request, pursuant to subdivision (c) or (d); or

60 (2) If a consumer's report was frozen due to a material misrepresentation of fact by a consumer. If a
61 consumer reporting agency intends to remove a freeze upon a consumer's report pursuant to this
62 paragraph, the consumer reporting agency shall notify the consumer in writing prior to removing the
63 freeze on the consumer's report.

64 (h) If a security freeze is in place, a consumer reporting agency shall not change any of the following
65 official information in a consumer report without sending a written confirmation of the change to the
66 consumer within thirty (30) days of the change being posted to the consumer's file: name, date of
67 birth, social security number, and address. Written confirmation is not required for technical

68 modifications of a consumer's official information, including name and street abbreviations, complete
69 spellings, or transposition of numbers or letters. In the case of an address change, the written
70 confirmation shall be sent to both the new address and to the former address.

71 (i) A consumer reporting agency shall honor any security freeze placed on a consumer credit report by
72 another consumer reporting agency.

73 (j) If a third party requests access to a consumer report on which a security freeze is in effect, and this
74 request is in connection with an application for credit or any other use, and the consumer does not
75 allow his or her consumer report to be accessed for that specific party or period of time, the third party
76 may treat the application as incomplete.

77 (k) The provisions of this section do not apply to the use of a consumer report by any of the following:

78 (1) A person or entity, or the person's or entity's subsidiary, affiliate, agent or assignee with which the
79 consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the
80 purposes of reviewing the account or collecting the financial obligation owing for the account,
81 contract, or debt, or extending credit to a consumer with a prior existing account, contract, or debtor-
82 creditor relationship, on the condition that the person or entity obtains, or has previously obtained, the
83 consent of the consumer consistent with section fifty-one of this chapter, and the consumer report is
84 used for the purpose consented to by the consumer. For purposes of this paragraph, "reviewing the
85 account" includes activities related to account maintenance, monitoring, credit line increases, and
86 account upgrades and enhancements.

- 87 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has
88 been granted under subdivision (d) above for purposes of facilitating the extension of credit or other
89 permissible use.
- 90 (3) Any state or local agency, law enforcement agency, trial court, or private collection agency, or
91 person acting pursuant to a court order, warrant, or subpoena.
- 92 (4) A child support agency acting pursuant to statute.
- 93 (5) The state department of health or its agents or assigns acting to investigate Medicaid fraud.
- 94 (6) The state tax board or its agents or assigns acting to investigate or collect delinquent taxes or
95 unpaid court orders or to fulfill any of its other statutory responsibilities.
- 96 (7) The use of credit information for the purposes of prescreening as provided for by the federal Fair
97 Credit Reporting Act, unless the consumer elects to exclude the consumer's name from the consumer
98 report agency list consistent with section fifty-one A of this chapter.
- 99 (8) Any person or entity administering a credit file monitoring subscription service to which the
100 consumer has subscribed.
- 101 (9) Any person or entity for the purpose of providing a consumer with a copy of his or her consumer
102 report upon the consumer's request.
- 103 (l) The following entities or persons are not required to place in a consumer report a security freeze;
104 provided however, that any entity or person that is not required to place a security freeze on a
105 consumer report under the provisions of paragraph (3) of this subdivision shall be subject to any

106 security freeze placed on a consumer report by another consumer reporting agency from which it
107 obtains information:

108 (1) A check services or fraud prevention services company, which issues reports on incidents of fraud
109 or authorizations for the purpose of approving or processing negotiable instruments, electronic funds
110 transfers, or similar methods of payments.

111 (2) A deposit account information service company, which issues reports regarding account closures
112 due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a
113 consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer
114 request for a deposit account at the inquiring bank or financial institution.

115 (3) A consumer reporting agency or person that (i) acts only to resell credit information by assembling
116 and merging information contained in the data base of one or more consumer reporting agencies; and
117 (ii) does not maintain a permanent data base of credit information from which new consumer reports
118 are produced.

119 (m) Fees may be imposed by a consumer reporting agency for each security freeze or temporary lift of
120 the security freeze for a period of time or for a specific party as set forth in paragraph (f) of section
121 fifty-nine of this chapter.

122 SECTION 3. Clause (b) of section 56 of chapter 93 of the General Laws, as appearing in the 2004
123 Official Edition, is hereby amended by adding the following paragraphs to the text enclosed in
124 quotation marks (informing consumers of their rights), at the end thereof:-

125 You have a right to place a “security freeze” on your credit report. The security freeze will prohibit a
126 credit reporting agency from releasing any information in your credit report without your express
127 authorization. A security freeze must be requested in writing by mail.

128 The security freeze is designed to prevent credit, loans, and services from being approved in your
129 name without your consent. However, you should be aware that using a security freeze to take control
130 over who gains access to the personal and financial information in your credit report may delay,
131 interfere with, or prohibit the timely approval of any subsequent request or application you make
132 regarding new loans, credit, mortgage, insurance, government services or payments, rental housing,
133 employment, investment, license, cellular phone, utilities, digital signature, internet credit card
134 transaction, or other services, including an extension of credit at point of sale.

135 When you place a security freeze on your credit report, within five business days you will be provided
136 a personal identification number or password to use if you choose to remove the freeze on your credit
137 report or authorize the release of your credit report for a specific party, parties or period of time after
138 the freeze is in place. To provide that authorization, you must contact the credit reporting agency and
139 provide all of the following:

- 140 (1) The personal identification number or password provided by the credit reporting agency.
- 141 (2) Proper identification to verify your identity.
- 142 (3) The proper information regarding the third party or parties who are to receive the credit report or
- 143 the period of time for which the report shall be available to users of the credit report.

144 A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a
145 credit report shall comply with the request no later than twenty-four (24) hours after receiving the
146 request.

147 A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on
148 behalf of the person or entity with which you have an existing account that requests information in
149 your credit report for the purposes of reviewing or collecting the account, provided you have
150 previously given your consent to use of your credit reports. Reviewing the account includes activities
151 related to account maintenance, monitoring, credit line increases, and account upgrades and
152 enhancements.

153 SECTION 4. Section 55 of said chapter 93, as so appearing, is hereby amended by inserting after the
154 word “fifty-one” in line 1 the following words:- and section sixty-two A

155 SECTION 5. Subsection (e) of section 57 of said chapter 93, as so appearing, is hereby amended by
156 striking out the words “fifty-seven or sixty-two” and inserting in place thereof the following words:-
157 fifty-seven, sixty-two or sixty-two A

158 SECTION 6. Section 59 of said chapter 93, as so appearing, is hereby amended by:-

159 (a) striking out the title and inserting in place thereof the following words:- “Charges to Consumer for
160 Certain Disclosures, Reports and Security Freezes”; and

161 (b) inserting at the end thereof the following paragraph:-

162 (f) A consumer reporting agency may charge a reasonable fee not to exceed ten dollars to a consumer
163 for each security freeze or temporary lift of the security freeze for a period of time or for a specific

164 party regarding access to a consumer report pursuant to section sixty-two-A, and may charge a
165 reasonable fee not to exceed ten dollars to a consumer for the removal of each security freeze.

166 SECTION 7. Section 63 of said chapter 93, as so appearing, is hereby amended by striking out the
167 words “sixty-two” and inserting in place thereof the following word:- sixty-two A

168 SECTION 8. Section 64 of said chapter 93, as so appearing, is hereby amended by striking out the
169 word “sixty-two”, in the first sentence, and inserting in place thereof the following word:- sixty-two A