

SENATE, No. 2786

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 25, 2018

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Prohibits consumer reporting agencies from charging certain fees related to security freezes on consumer reports.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/30/2018)

1 AN ACT concerning consumer reporting agencies and amending
2 P.L.2005, c.226.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 5 of P.L.2005, c.226 (C.56:11-46) is amended to
8 read as follows:

9 5. a. A consumer may elect to place a security freeze on his
10 consumer report by:

11 (1) making a request in writing by certified mail or overnight
12 mail to a consumer reporting agency; or

13 (2) making a request directly to the consumer reporting agency
14 through a secure electronic mail connection, if an electronic mail
15 connection is provided by the consumer reporting agency.

16 b. A consumer reporting agency shall place a security freeze on
17 a consumer report no later than five business days after receiving a
18 written request from the consumer.

19 c. The consumer reporting agency shall send a written
20 confirmation of the security freeze to the consumer within five
21 business days of placing the freeze and at the same time shall
22 provide the consumer with a unique personal identification number
23 or password to be used by the consumer when providing
24 authorization for the release of his credit for a specific party or
25 period of time.

26 d. If the consumer wishes to allow his consumer report to be
27 accessed for a specific party or period of time while a freeze is in
28 place, he shall contact the consumer reporting agency via certified
29 or overnight mail or secure electronic mail and request that the
30 freeze be temporarily lifted, and provide all of the following:

31 (1) Information generally deemed sufficient to identify a person;

32 (2) The unique personal identification number or password
33 provided by the consumer reporting agency pursuant to subsection
34 c. of this section; and

35 (3) The proper information regarding the third party who is to
36 receive the consumer report or the time period for which the
37 consumer report shall be available to users of the consumer report.

38 e. A consumer reporting agency that receives a request from a
39 consumer to temporarily lift a freeze on a consumer report pursuant
40 to subsection d. of this section shall comply with the request no
41 later than three business days after receiving the request.

42 f. A consumer reporting agency shall develop procedures
43 involving the use of telephone, fax, the Internet, or other electronic
44 media to receive and process a request from a consumer to
45 temporarily lift a freeze on a consumer report pursuant to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 subsection d. of this section in an expedited manner. The director
2 shall promulgate regulations necessary to allow the use of
3 electronic media to receive and process a request from a consumer
4 to temporarily lift a security freeze pursuant to subsection d. of this
5 section as quickly as possible, with the goal of processing a request
6 within 15 minutes of that request.

7 g. A consumer reporting agency shall remove or temporarily
8 lift a freeze placed on a consumer report only in the following
9 cases:

10 (1) Upon consumer request, pursuant to subsection d. or j. of
11 this section; or

12 (2) If the consumer report was frozen due to a material
13 misrepresentation of fact by the consumer. If a consumer reporting
14 agency intends to remove a freeze upon a consumer report pursuant
15 to this paragraph, the consumer reporting agency shall notify the
16 consumer in writing at least five business days prior to removing
17 the freeze on the consumer report.

18 h. If a third party requests access to a consumer report on
19 which a security freeze is in effect, and this request is in connection
20 with an application for credit or any other use, and the consumer
21 does not allow his consumer report to be accessed for that specific
22 party or period of time, the third party may treat the application as
23 incomplete.

24 i. (1) At any time that a consumer is required to receive a
25 summary of rights required under section 609 of the federal "Fair
26 Credit Reporting Act," 15 U.S.C. s.1681g, the following notice
27 shall be included:

28
29 **New Jersey Consumers Have the Right to Obtain a**
30 **Security Freeze**
31

32 You may obtain a security freeze on your credit report
33 to protect your privacy and ensure that credit is not granted
34 in your name without your knowledge. You have a right to
35 place a "security freeze" on your credit report pursuant to
36 New Jersey law.

37 The security freeze will prohibit a consumer reporting
38 agency from releasing any information in your credit report
39 without your express authorization or approval.

40 The security freeze is designed to prevent credit, loans,
41 and services from being approved in your name without
42 your consent. When you place a security freeze on your
43 credit report, within five business days you will be
44 provided a personal identification number or password to
45 use if you choose to remove the freeze on your credit report
46 or to temporarily authorize the release of your credit report
47 for a specific party, parties or period of time after the
48 freeze is in place. To provide that authorization, you must
49 contact the consumer reporting agency and provide all of
50 the following:

51 (i) The unique personal identification number or
52 password provided by the consumer reporting agency;

(ii) Proper identification to verify your identity; and
(iii) The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A consumer reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days or less, as provided by regulation, after receiving the request.

A security freeze does not apply to circumstances in which you have an existing account relationship and a copy of your report is requested by your existing creditor or its agents or affiliates for certain types of account review, collection, fraud control or similar activities.

If you are actively seeking credit, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze, either completely if you are shopping around, or specifically for a certain creditor, a few days before actually applying for new credit.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a consumer reporting agency or a user of your credit report.

(2) If a consumer requests information about a security freeze, he shall be provided with the notice provided in paragraph (1) of this subsection and with any other information, as prescribed by the director by regulation, about how to place, temporarily lift and permanently lift a security freeze.

j. A security freeze shall remain in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides the following:

(1) Proper identification; and

(2) The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection c. of this section.

k. A consumer reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

l. The provisions of this section do not apply to the use of a consumer report by the following:

(1) A person, or subsidiary, affiliate, or agent of that person, or an assignee of a financial obligation owing by the consumer to that person, or a prospective assignee of a financial obligation owing by the consumer to that person in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or

1 collecting the financial obligation owing for the account, contract,
2 or negotiable instrument. For purposes of this paragraph,
3 "reviewing the account" includes activities related to account
4 maintenance, monitoring, credit line increases, and account
5 upgrades and enhancements;

6 (2) A subsidiary, affiliate, agent, assignee, or prospective
7 assignee of a person to whom access has been granted under
8 subsection d. of this section, for purposes of facilitating the
9 extension of credit or other permissible use;

10 (3) Any State or local agency, law enforcement agency, trial
11 court, or private collection agency acting pursuant to a court order,
12 warrant, or subpoena;

13 (4) The Division of Taxation in the Department of the Treasury
14 for the purpose of enforcing the tax laws of this State;

15 (5) A State or local child support enforcement agency;

16 (6) The use of credit information for the purposes of
17 prescreening as provided for by the federal "Fair Credit Reporting
18 Act," 15 U.S.C. s.1681 et seq.;

19 (7) Any person or entity administering a credit file monitoring
20 subscription service to which the consumer has subscribed; or

21 (8) Any person or entity for the purpose of providing a
22 consumer with a copy of the consumer's credit report upon the
23 consumer's request.

24 m. (1) A consumer reporting agency shall not charge a
25 consumer any fee to place a security freeze on that consumer's
26 consumer report, or to remove or temporarily lift a security freeze
27 on that consumer's consumer report.

28 (2) **【A consumer reporting agency may charge a reasonable fee,**
29 **not to exceed \$5, to a consumer who elects to remove or**
30 **temporarily lift a security freeze on that consumer's consumer**
31 **report.】** (Deleted by amendment, P.L. , c.) (pending before the
32 Legislature as this bill)

33 (3) **【A consumer may be charged a reasonable fee, not to exceed**
34 **\$5, if the consumer fails to retain the original personal identification**
35 **number provided by the consumer reporting agency and must be**
36 **reissued the same or a new personal identification number.】**
37 (Deleted by amendment, P.L. , c.) (pending before the
38 Legislature as this bill)

39 (cf: P.L.2005, c.226, s.5)

40
41 2. This act shall take effect immediately.

42
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44 STATEMENT

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46 This bill amends the New Jersey "Identity Theft Prevention Act"
47 to prohibit a consumer reporting agency from charging a consumer

1 any fee to remove or temporarily lift a security freeze on that
2 consumer's consumer report.
3 Current law prohibits consumer reporting agencies from charging
4 fees to place a security freeze on that consumer's consumer report,
5 but allows a reasonable fee, not to exceed five dollars, to be charged
6 to a consumer who elects to remove or temporarily lift a security
7 freeze on that consumer's consumer report or if the consumer fails
8 to retain the original personal identification number provided by the
9 consumer reporting agency and must be reissued the same or a new
10 personal identification number. The bill removes the provisions
11 allowing a fee to be charged in these situations.