

ACT No. 766

Regular Session, 2004

HOUSE BILL NO. 623

BY REPRESENTATIVES JEFFERSON, THOMPSON, AND DORSEY

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AN ACT

To amend and reenact R.S. 9:3571.1(H) and (L)(introductory paragraph) and to enact R.S. 9:3571.1(M) through (Y), relative to protection from identity theft; to provide for security freezes; to provide for definitions; to provide for the procedures for access after imposition and removal of security freezes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3571.1(H) and (L)(introductory paragraph) are hereby amended and reenacted and R.S. 9:3571.1(M) through (Y) are hereby enacted to read as follows:

§3571.1. Credit reporting agency information and reports; consumer access to files; right of correction; dissemination or maintenance of untrue or misleading credit information by credit reporting agency; investigation; right to recovery

* * *

H. For the purposes of this Section:

(1) "Clear and proper identification" means information generally deemed sufficient to identify a person.

~~(1)~~ (2) "Credit report" means any written, oral, or other communication of any credit information by a credit reporting agency, as defined in the federal Fair Credit Reporting Act, which operates or maintains a ~~data base~~ database of consumer credit information bearing on a consumer's credit worthiness, credit standing, or credit capacity.

~~(2)~~ (3) "Credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third

1 parties, and who uses any means or facility of interstate commerce for the purpose
 2 of preparing or furnishing consumer reports. For the purposes of this Section,
 3 "Credit Reporting Agency" shall not mean a check acceptance service which provides
 4 check approval and guarantees services to merchants.

5 ~~(3)~~ (4) "Security alert" means a notice placed on a consumer file, at the
 6 request of the consumer, that is sent to a recipient of a consumer report involving that
 7 consumer file, signifying the fact that the consumer's identity may have been used
 8 without the consumer's consent to fraudulently obtain goods or services in the
 9 consumer's name.

10 (5) "Security freeze" means a notice placed on a consumer file, at the request
 11 of the consumer and subject to certain exceptions, that prohibits a credit reporting
 12 agency from releasing the consumer's credit report or credit score without the express
 13 authorization of the consumer.

14 * * *

15 L. The following persons are not required to place a security alert or a
 16 security freeze on a ~~consumer~~ credit report in accordance with this Part.

17 * * *

18 M.(1) A consumer may elect to place a security freeze on his credit report by
 19 written request, sent by certified mail, that includes clear and proper identification,
 20 to a credit reporting agency. A credit reporting agency shall place a security freeze
 21 on a consumer's credit report no later than ten business days after receiving a written
 22 request for the security freeze from the consumer.

23 (2) When a security freeze is in place, information from a consumer's credit
 24 report shall not be released to a third party without prior express authorization from
 25 the consumer. This Subsection does not prevent a credit reporting agency from
 26 advising a third party that a security freeze is in effect with respect to the consumer's
 27 credit report.

28 N. The credit reporting agency shall, no later than ten business days after the
 29 date the agency receives the request for a security freeze, provide the consumer with

1 a unique personal identification number or password to be used by the consumer
2 when providing authorization for the access to his credit file for a specific period of
3 time. In addition, the credit reporting agency shall simultaneously provide to the
4 consumer in writing the process of placing, removing, and temporarily lifting a
5 security freeze and the process for allowing access to information from the
6 consumer's credit file for a specific period while the security freeze is in effect.

7 O. A consumer may request in writing a replacement personal identification
8 number or password. The request must comply with the requirements for requesting
9 a security freeze under Subsection M. The credit reporting agency shall, not later
10 than the seventh business day after the date the agency receives the request for a
11 replacement personal identification number or password, provide the consumer with
12 a new, unique personal identification number or password to be used by the
13 consumer instead of the number or password that was provided under Subsection N.

14 P. A credit reporting agency shall notify a person who requests a consumer
15 report or score if a security freeze is in effect for the consumer file involved in that
16 report or score.

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

22 R. If the consumer wishes to allow his credit report or score to be accessed
23 for a specific period of time while a freeze is in place, he shall contact the credit
24 reporting agency and request that the freeze be temporarily lifted, and provide the
25 following:

26 (1) Clear and proper identification.

27 (2) The unique personal identification number or password provided by the
28 credit reporting agency pursuant to Subsection N or O.

1 (3) The proper information regarding the time period for which the report
2 shall be available to users of the credit report.

3 S. A credit reporting agency that receives a request from a consumer to
4 temporarily lift a freeze on a credit report pursuant to Subsection R shall comply with
5 the request no later than three business days after receiving the request. A credit
6 reporting agency may develop procedures involving the use of telephone, fax, the
7 Internet, or other electronic media to receive and process a request from a consumer
8 to temporarily lift a freeze on a credit report or score pursuant to Subsection R in an
9 expedited manner.

10 T. A credit reporting agency shall remove or temporarily lift a freeze placed
11 on a consumer's credit report only in the following cases:

12 (1) Upon consumer request as provided in this Section.

13 (2) If the consumer's credit report was frozen due to a material
14 misrepresentation of fact by the consumer. If a credit reporting agency intends to
15 remove a freeze upon a consumer's credit report pursuant to this Paragraph, the credit
16 reporting agency shall notify the consumer in writing prior to removing the freeze on
17 the consumer's credit report.

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

22 (1) Clear and proper identification.

23 (2) The unique personal identification number or password provided by the
24 credit reporting agency.

25 V. A security freeze does not apply to a consumer report provided to:

26 (1) A federal, state, or local governmental entity, including a law
27 enforcement agency, or court, or their agents or assigns.

1 (2) A private collection agency for the sole purpose of assisting in the
2 collection of an existing debt of the consumer who is the subject of the credit report
3 requested.

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

15 (4) A subsidiary, affiliate, agent, assignee, or prospective assignee of a
16 person to whom access has been granted under Subsection R for the purposes of
17 facilitating the extension of credit.

18 (5) A person, for the purposes of prescreening as provided by the federal Fair
19 Credit Reporting Act.

20 (6) A credit reporting agency for the purposes of providing a consumer with
21 a copy of his own report on his request.

22 (7) A child support enforcement agency.

23 (8) A credit reporting agency that acts only as a reseller of credit information
24 by assembling and merging information contained in the database of another credit
25 reporting agency or multiple credit reporting agencies and does not maintain a
26 permanent database of credit information from which new credit reports are
27 produced. However, a credit reporting agency acting as a reseller shall honor any
28 security freeze placed on a credit report by another credit reporting agency.

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

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

10 W. A credit reporting agency may impose a reasonable charge on a consumer
11 for initially placing a security freeze on a consumer file. The amount of the charge
12 may not exceed ten dollars. The charge to temporarily lift the security freeze may not
13 exceed eight dollars per request. At no time shall the consumer be charged for
14 revoking the freeze. On January first of each year, a credit reporting agency may
15 increase the charge for placing a security alert based proportionally on changes to the
16 Consumer Price Index of All Urban Consumers as determined by the United States
17 Department of Labor with fractional changes rounded to the nearest twenty-five
18 cents. An exception shall be allowed whereby the consumer will be charged zero
19 dollars by the consumer reporting agency placing the security freeze if any of the
20 following applies:

21 (1) If the consumer is a victim of identity theft and, upon the request of the
22 consumer reporting agency, provides the credit reporting agency with a police report
23 described in R.S. 9:3568.

24 (2) If the consumer is sixty-two years of age or older.

25 X. If a security freeze is in place, a credit reporting agency shall not change
26 any of the following official information in a consumer credit report without sending
27 a written confirmation of the change to the consumer within thirty days of the change
28 being posted to the consumer's file: name, date of birth, social security number, and
29 address. Written confirmation is not required for technical modifications of a

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

4 Y. Any consumer damaged by an intentional or negligent violation of
5 Subsections M through U may bring an action for and shall be entitled to recovery
6 of actual damages, plus reasonable attorney fees, court costs, and other reasonable
7 costs of prosecution of the suit.

8 Section 2. This Act shall become effective on July 1, 2005.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____