

Regular Session, 2010

SENATE BILL NO. 228

BY SENATOR DUPLESSIS

CONSUMERS/PROTECTION. Provides relative to credit reporting security. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 9:3571.1(M), (N), (O), (R) (introductory paragraph), (S), (U)
3 (introductory paragraph), and (Y), and to enact R.S. 9:3571.1(Z), relative to credit
4 reporting agency information and reports; to provide for methods a consumer may
5 use to place a security freeze on his credit report; to provide for the credit reporting
6 agency's obligation to freeze the report upon request; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:3571.1(M), (N), (O), (R) (introductory paragraph), (S), (U)
10 (introductory paragraph), and (Y) are hereby amended and reenacted and R.S. 9:3571.1(Z)
11 is hereby enacted to read as follows:

12 §3571.1. Credit reporting agency information and reports; consumer access to files;
13 right of correction; dissemination or maintenance of untrue or
14 misleading credit information by credit reporting agency;
15 investigation; right to recovery

16 * * *

17 M.(1) A consumer may elect to place a security freeze on his credit report

1 by **any of the following methods:**

2 (a) **By** written request, sent by **standard or** certified mail, that includes clear
3 and proper identification, to a credit reporting agency.

4 (b) **Telephone call.**

5 (c) **Secure website.**

6 (2) A credit reporting agency shall place a security freeze on a consumer's
7 credit report no later than ~~ten~~ **five** business days after receiving a written request for
8 the security freeze from the consumer **by mail. A credit reporting agency that**
9 **receives such a request electronically or by telephone shall comply with the**
10 **request within twenty-four hours of receiving the request.**

11 (2) (3) When a security freeze is in place, information from a consumer's
12 credit report shall not be released to a third party without prior express authorization
13 from the consumer. This Subsection does not prevent a credit reporting agency from
14 advising a third party that a security freeze is in effect with respect to the consumer's
15 credit report.

16 N. The credit reporting agency shall, no later than ~~ten~~ **five** business days
17 after the date the agency receives the request for a security freeze, provide the
18 consumer with a unique personal identification number or password to be used by
19 the consumer when providing authorization for the access to his credit file for a
20 specific period of time. In addition, the credit reporting agency shall simultaneously
21 provide to the consumer in writing the process of placing, removing, and temporarily
22 lifting a security freeze and the process for allowing access to information from the
23 consumer's credit file for a specific period while the security freeze is in effect.

24 O. A consumer may request ~~in writing~~ a replacement personal identification
25 number or password. The request must comply with the requirements for requesting
26 a security freeze under Subsection M **of this Section.** The credit reporting agency
27 shall, not later than the ~~seventh~~ **fifth** business day after the date the agency receives
28 the request for a replacement personal identification number or password, provide
29 the consumer with a new, unique personal identification number or password to be

1 used by the consumer instead of the number or password that was provided under
2 Subsection N **of this Section.**

3 * * *

4 R. If the consumer wishes to allow his credit report or score to be accessed
5 for a specific period of time while a freeze is in place, he shall contact the credit
6 reporting agency **by a method provided for in Subsection M of this Section** and
7 request that the freeze be temporarily lifted, and provide the following:

8 * * *

9 S. A credit reporting agency that receives a request **by mail** from a consumer
10 to temporarily lift a freeze on a credit report pursuant to Subsection R **of this Section**
11 shall comply with the request no later than three business days after receiving the
12 request. A credit reporting agency ~~may develop procedures involving the use of~~
13 ~~telephone, fax, the Internet, or other electronic media to receive and process a request~~
14 ~~from a consumer to temporarily lift a freeze on a credit report or score pursuant to~~
15 ~~Subsection R in an expedited manner~~ **that receives such a request electronically**
16 **or by telephone shall comply with the request within fifteen minutes of receiving**
17 **the request.**

18 * * *

19 U. A security freeze shall remain in place until the consumer requests that
20 the security freeze be **temporarily lifted for a specific period of time or** removed.
21 A credit reporting agency shall remove a security freeze within three business days
22 of receiving a **written or telephonic** request for removal from the consumer **or**
23 **within fifteen minutes of receiving an electronic request for removal from the**
24 **consumer,** who provides both of the following:

25 * * *

26 Y. **(1) Except as provided in Paragraph (2) of this Subsection, any** Any
27 consumer damaged by an intentional or negligent violations of Subsections ~~M~~
28 ~~through U~~ **M through U of this Section** may bring an action for and shall be entitled
29 to recovery of actual damages, plus reasonable attorney fees, court costs, and other

1 reasonable costs of prosecution of the suit.

2 **(2) Notwithstanding any other provision of law, the exclusive authority**
3 **to bring an action for any violation of Subsection S or Paragraph (M)(2) of this**
4 **Section shall be with the attorney general.**

5 **Z. A credit reporting agency is not required to place, remove, or**
6 **temporarily lift a security freeze within the time periods provided in this**
7 **Section, only for such time as the occurrences prevent compliance, if any of the**
8 **following occurrences apply:**

9 **(a) The consumer fails to provide information required by this Section.**

10 **(b) The credit reporting agency's ability to place, remove, or temporarily**
11 **lift the security freeze is prevented by any of the following circumstances:**

12 **(i) An act of God, including fire, earthquakes, hurricanes, storms, or**
13 **similar natural disaster or phenomena.**

14 **(ii) Unauthorized or illegal acts by a third party, including terrorism,**
15 **sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or**
16 **similar occurrence.**

17 **(iii) Operational interruption, including electrical failure, unanticipated**
18 **delay in equipment or replacement part delivery, computer hardware or**
19 **software failures inhibiting response time, or similar disruption.**

20 **(iv) Governmental action, including emergency orders or regulations,**
21 **judicial or law enforcement action, or similar directives.**

22 **(v) Regularly scheduled maintenance, during other than normal**
23 **business hours, of, or updates to, the credit reporting agency's systems.**

24 **(vi) Commercially reasonable maintenance of, or repair to, the credit**
25 **reporting agency's systems that is unexpected or unscheduled.**

The original instrument was prepared by Alan Miller. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

Present law requires a consumer to request a security freeze on his credit report by written request sent by certified mail to the credit reporting agency.

Proposed law retains present law, but also allows for a consumer to request a security freeze on his credit report by standard mail, a telephone call, or by use of a secure website.

Present law requires a credit reporting agency to place a security freeze on the consumer's credit report no later than 10 business days after receiving a written request for the security freeze from the consumer.

Proposed law shortens the requirement in present law from 10 business days to five business days for the credit reporting agency to place a security freeze on the consumer's credit report after receiving a written request by the consumer. If the credit reporting agency receives the request electronically or by telephone, it must comply with the request within 24 hours of receiving the request.

Present law requires that the credit reporting agency provide the consumer with a unique PIN or password to be used by the consumer when providing authorization for the access to his credit file for a specific period of time, no later than 10 business days after the date the agency receives the request for a security freeze.

Proposed law shortens the time required for providing the consumer with a unique PIN or password from 10 business days to five business days.

Present law authorizes the credit reporting agency to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report or score in an expedited manner, pursuant to present law.

Proposed law repeals present law and requires the credit reporting agency that receives a request electronically or by telephone to temporarily lift a freeze on a credit report or score to comply within 15 minutes of receiving the request.

Present law allows any consumer damaged by intentional or negligent violations of present law to bring an action and be entitled to recover actual damages, reasonable attorney fees, court costs, and other reasonable costs of prosecution of the suit.

Proposed law limits the authority to bring actions for any violation regarding mail, electronic, or telephone requests to the attorney general.

Proposed law provides that a credit reporting agency is not required to place, remove, or temporarily lift a security freeze within the time periods provided in proposed law, only for such time as the occurrences prevent compliance, if any of the following occurrences apply:

1. The consumer fails to provide information required by proposed law.
2. The credit reporting agency's ability to place, remove, or temporarily lift the security freeze within 15 minutes is prevented by any of the following circumstances:
 - (a) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural disaster or phenomena.

- (b) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrence.
- (c) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption.
- (d) Governmental action, including emergency orders or regulations, judicial or law enforcement action, or similar directives.
- (e) Regularly scheduled maintenance, during other than normal business hours, of, or updates to, the credit reporting agency's systems.
- (f) Commercially reasonable maintenance of, or repair to, the credit reporting agency's systems that is unexpected or unscheduled.

Effective August 15, 2010.

(Amends R.S. 9:3571.1(M), (N), (O), (R) (intro para), (S), (U) (intro para), and (Y); adds R.S. 9:3571.1(Z))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill.

1. Technical.
2. Grants the attorney general the exclusive authority to bring an action for any violation regarding mail, electronic, or telephone requests to freeze the consumer's credit report.

Senate Floor Amendments to reengrossed bill.

1. Technical amendments.