

STATE OF NEW YORK

8695

2017-2018 Regular Sessions

IN ASSEMBLY

October 5, 2017

Introduced by M. of A. DINOWITZ, GOTTFRIED, BUCHWALD, SIMON, SEAWRIGHT, SIMOTAS, BARRON, THIELE, FAHY, WRIGHT, GUNTHER, SOLAGES, ORTIZ, BRAUNSTEIN, McDONALD, WILLIAMS, OTIS -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting fees for security freezes by consumer credit reporting agencies in the case of a breach of information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (n) of section 380-t of the general business law is amended by adding a new paragraph 3 to read as follows:

(3)(i) Upon a breach of data of a consumer credit reporting agency which includes any social security number, such agency shall offer to each consumer, whose information, including social security number, was breached or is reasonably believed to have been breached, unlimited reasonable identity theft prevention services and, if applicable, identify theft mitigation services at no cost to such consumers. Such agency shall provide all information necessary for such consumer to enroll in such services and shall include information on how such consumer can request a security freeze. Such services are not required if, after an appropriate investigation, the agency reasonably determines that the breach of security is unlikely to result in harm to the consumers whose information has been breached.

(ii) Upon a breach of data of a consumer credit reporting agency which includes any social security number, no consumer credit reporting agency shall, at any time, charge a fee to a consumer requesting the placement of a security freeze, or for any subsequent removal of a freeze or the temporary lift of a freeze for a specific party or period of time or for the issuance of a replacement personal identification number or password when the consumer fails to retain the personal identification number or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13504-03-7

1 password provided to such consumer by such consumer credit reporting
2 agency.

3 (iii) "Breach of the security" as used in this paragraph shall mean
4 the unauthorized acquisition or acquisition without valid authorization
5 of computerized data that compromises the security, confidentiality, or
6 integrity of private information. Good faith acquisition of private
7 information by an employee or agent of the business for the purposes of
8 the business is not a breach of the security of the system, provided
9 that the private information is not used or subject to unauthorized
10 disclosure.

11 § 2. Subdivision (q) of section 380-t of the general business law, as
12 amended by chapter 279 of the laws of 2008, is amended to read as
13 follows:

14 (q) (1) Any time a consumer credit reporting agency is required to
15 send a summary of rights required under 15 U.S.C. section 1681g, to a
16 consumer residing in this state the following notice shall be included
17 with such summary of rights:

18 "NEW YORK CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE.

19 YOU HAVE A RIGHT TO PLACE A "SECURITY FREEZE" ON YOUR CREDIT REPORT,
20 WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING AGENCY FROM RELEASING
21 INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS AUTHORIZATION. A
22 SECURITY FREEZE MUST BE REQUESTED IN WRITING DELIVERY CONFIRMATION
23 REQUESTED OR VIA TELEPHONE, SECURE ELECTRONIC MEANS, OR OTHER METHODS
24 DEVELOPED BY THE CONSUMER CREDIT REPORTING AGENCY. THE SECURITY FREEZE
25 IS DESIGNED TO PREVENT CREDIT, LOANS, AND SERVICES FROM BEING APPROVED
26 IN YOUR NAME WITHOUT YOUR CONSENT. IN THE CASE OF A SECURITY BREACH OF
27 DATA OF A CONSUMER CREDIT REPORTING AGENCY WHICH INCLUDES ANY SOCIAL
28 SECURITY NUMBER YOU HAVE A RIGHT TO REQUEST A SECURITY FREEZE AT NO
29 COST. HOWEVER, YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO TAKE
30 CONTROL OVER WHO GETS ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION
31 IN YOUR CREDIT REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE TIMELY
32 APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A
33 NEW LOAN, CREDIT, MORTGAGE, GOVERNMENT SERVICES OR PAYMENTS, INSURANCE,
34 RENTAL HOUSING, EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILI-
35 TIES, DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER
36 SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE. WHEN YOU
37 PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT, YOU WILL BE PROVIDED A
38 PERSONAL IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU CHOOSE TO
39 REMOVE THE FREEZE ON YOUR CREDIT REPORT OR AUTHORIZE THE RELEASE OF YOUR
40 CREDIT REPORT TO A SPECIFIC PARTY OR FOR A PERIOD OF TIME AFTER THE
41 FREEZE IS IN PLACE. TO PROVIDE THAT AUTHORIZATION YOU MUST CONTACT THE
42 CONSUMER CREDIT REPORTING AGENCY AND PROVIDE ALL OF THE FOLLOWING:

43 (1) THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD;

44 (2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY;

45 (3) THE PROPER INFORMATION REGARDING THE PARTY OR PARTIES WHO ARE TO
46 RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE REPORT
47 SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT; AND

48 (4) PAYMENT OF ANY APPLICABLE FEE.

49 A CONSUMER CREDIT REPORTING AGENCY MUST AUTHORIZE THE RELEASE OF YOUR
50 CREDIT REPORT NO LATER THAN THREE BUSINESS DAYS AFTER RECEIVING THE
51 ABOVE INFORMATION. EFFECTIVE SEPTEMBER FIRST, TWO THOUSAND NINE, A
52 CONSUMER CREDIT REPORTING AGENCY THAT RECEIVES A REQUEST VIA TELEPHONE
53 OR SECURE ELECTRONIC METHOD SHALL RELEASE A CONSUMER'S CREDIT REPORT
54 WITHIN FIFTEEN MINUTES WHEN THE REQUEST IS RECEIVED.

55 A SECURITY FREEZE DOES NOT APPLY TO CIRCUMSTANCES IN WHICH YOU HAVE AN
56 EXISTING ACCOUNT RELATIONSHIP AND A COPY OF YOUR REPORT IS REQUESTED BY

1 YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN TYPES OF
2 ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL OR SIMILAR ACTIVITIES.

3 IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE
4 PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR APPLICA-
5 TION FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A FREEZE, EITHER
6 COMPLETELY IF YOU ARE SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN
7 CREDITOR, BEFORE APPLYING FOR NEW CREDIT. WHEN SEEKING CREDIT OR PURSU-
8 ING ANOTHER TRANSACTION REQUIRING ACCESS TO YOUR CREDIT REPORT, IT IS
9 NOT NECESSARY TO RELINQUISH YOUR PIN OR PASSWORD TO THE CREDITOR OR
10 BUSINESS; YOU CAN CONTACT THE CONSUMER CREDIT REPORTING AGENCY DIRECTLY.
11 IF YOU CHOOSE TO GIVE OUT YOUR PIN OR PASSWORD TO THE CREDITOR OR BUSI-
12 NESS, IT IS RECOMMENDED THAT YOU OBTAIN A NEW PIN OR PASSWORD FROM THE
13 CONSUMER CREDIT REPORTING AGENCY."

14 (2) If a consumer requests information about a security freeze, such
15 consumer shall be provided with the notice set forth in paragraph one of
16 this subdivision and with any other information necessary to place,
17 temporarily lift or permanently lift a security freeze, including but
18 not limited to the address, telephone number or point of contact at
19 which the consumer credit reporting agency receives such requests.

20 § 3. This act shall take effect immediately and shall be deemed to
21 have been in full force and effect on and after July 1, 2017.