
A BILL FOR AN ACT

RELATING TO CONSUMER CREDIT REPORTING AGENCIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act shall be known as the "Identity Theft
2 Protection Act of 2006."

3 SECTION 2. The Federal Trade Commission recently
4 determined that between October 1998 and September 2003, more
5 than 27.3 million Americans have been victims of identity theft,
6 resulting in billions of dollars of losses to consumers. This
7 Act adds a new chapter to the Hawaii Revised Statutes designed
8 to protect Hawaii consumers who are victims of identity theft by
9 allowing them to place a security freeze on their credit
10 reports. This security freeze will prohibit a consumer
11 reporting agency from releasing any information to unauthorized
12 parties without the consumer's express consent and provide
13 consumers more control over who has access to their credit
14 report. This Act will effectively prevent identity thieves from
15 continuing to secure credit in a victim's name.

16 SECTION 3. The Hawaii Revised Statutes is amended by
17 adding to title 26 a new chapter to be appropriately designated
18 and to read as follows:

1 "CHAPTER

2 CONSUMER REPORTING AGENCIES

3 § -1 **Definitions.** When used in this chapter, unless the
4 context otherwise requires:

5 "Credit report" means any written, oral, or other
6 communication of any credit information by a consumer reporting
7 agency, as defined in the federal Fair Credit Reporting Act,
8 which operates or maintains a database of consumer credit
9 information bearing on a consumer's credit worthiness, credit
10 standing, or credit capacity.

11 "Consumer reporting agency" means any person who, for
12 monetary fees or dues or on a cooperative nonprofit basis,
13 regularly engages in whole or in part in the practice of
14 assembling or evaluating consumer credit information or other
15 information on consumers for the purpose of furnishing consumer
16 credit reports to third parties, but does not include any
17 governmental agency whose records are maintained primarily for
18 law enforcement or licensing purposes.

19 "Identity theft" means the unauthorized use of another
20 person's identifying information to obtain credit, goods,
21 services, money, or property.

1 "Security freeze" means a notice placed in a credit report,
2 at the request of the consumer who is a victim of identity
3 theft.

4 § -2 **Security freeze by consumer reporting agency.** (a)

5 A consumer who has been the victim of identity theft may place a
6 security freeze on the consumer's credit report by making a
7 request in writing by certified mail to a consumer reporting
8 agency with a valid copy of a police report, investigative
9 report, or complaint the consumer has filed with a law
10 enforcement agency about unlawful use of the consumer's personal
11 information by another person. A consumer reporting agency
12 shall not charge a fee for placing or removing a security freeze
13 on a credit report. A security freeze shall prohibit the
14 consumer reporting agency from releasing the consumer's credit
15 report or any information from it without the express
16 authorization of the consumer. When a security freeze is in
17 place, information from a consumer's credit report shall not be
18 released to a third party without prior express authorization
19 from the consumer. This subsection does not prevent a consumer
20 reporting agency from advising a third party that a security
21 freeze is in effect with respect to the consumer's credit
22 report.



1 (b) A consumer reporting agency shall place a security
2 freeze on a consumer's credit report no later than five business
3 days after receiving a written request from the consumer.

4 (c) The consumer reporting agency shall send a written
5 confirmation of the security freeze to the consumer within ten
6 business days of placing the security freeze and shall provide
7 the consumer with a unique personal identification number or
8 password, other than the consumer's social security number, to
9 be used by the consumer when providing authorization for the
10 release of the consumer's credit for a specific party, parties,
11 or period of time.

12 (d) If the consumer wishes to allow access to the
13 consumer's credit report for a specific party, parties, or
14 period of time while a freeze is in place, the consumer shall
15 contact the consumer reporting agency, request that the freeze
16 be temporarily lifted, and provide the following:

- 17 (1) Clear and proper identification;
- 18 (2) The unique personal identification number or password
19 provided by the consumer reporting agency; and
- 20 (3) Clear and proper information regarding the third
21 party, parties, or time period for which the report
22 shall be available to users of the credit report.

1 (e) A consumer reporting agency may develop procedures
2 involving the use of telephone, fax, the internet, or other
3 electronic media to receive and process a request from a
4 consumer to temporarily lift a freeze on a credit report in an
5 expedited manner.

6 (f) A consumer reporting agency that receives a request
7 from a consumer to temporarily lift a freeze on a credit report
8 shall comply with the request no later than three business days
9 after receiving the request.

10 (g) A consumer reporting agency shall remove or
11 temporarily lift a freeze placed on a consumer's credit report
12 only in the following cases:

13 (1) Upon consumer request; or

14 (2) When the consumer's credit report was frozen due to a
15 material misrepresentation of fact by the consumer.

16 If a consumer reporting agency intends to remove a freeze upon a
17 consumer's credit report pursuant to this subsection, the
18 consumer reporting agency shall notify the consumer in writing
19 prior to removing the freeze on the consumer's credit report.

20 (h) If a third party requests access to a credit report on
21 which a security freeze is in effect and this request is in
22 connection with an application for credit or any other use and



1 the consumer does not allow the consumer's credit report to be
2 accessed for that specific party or period of time, the third
3 party may treat the application as incomplete.

4 (i) If a consumer requests a security freeze, the consumer
5 reporting agency shall disclose to the consumer the process of
6 placing and temporarily lifting a security freeze and the
7 process for allowing access to information from the consumer's
8 credit report for a specific party, parties, or period of time
9 while the security freeze is in place.

10 (j) A security freeze shall remain in place until the
11 consumer requests that the security freeze be removed. A
12 consumer reporting agency shall remove a security freeze within
13 three business days of receiving a request for removal from the
14 consumer who provides both of the following:

15 (1) Clear and proper identification; and
16 (2) The unique personal identification number or password
17 provided by the consumer reporting agency pursuant to
18 subsection (c).

19 (k) A consumer reporting agency shall require clear and
20 proper identification of the person making a request to place or
21 remove a security freeze.



1 (1) The provisions of this section, including the security
2 freeze, do not apply to the use of a consumer report by the
3 following:

4 (1) A person, or the person's subsidiary, affiliate,
5 agent, or assignee with which the consumer has or,
6 prior to assignment, had an account, contract, or
7 debtor-creditor relationship for the purposes of
8 reviewing the account or collecting the financial
9 obligation owing for the account, contract, or debt,
10 or extending credit to a consumer with a prior or
11 existing account, contract, or debtor-creditor
12 relationship. For purposes of this subsection,
13 "reviewing the account" includes activities related to
14 account maintenance, monitoring, credit line
15 increases, and account upgrades and enhancements;

16 (2) A subsidiary, affiliate, agent, assignee, or
17 prospective assignee of a person to whom access has
18 been granted for purposes of facilitating the
19 extension of credit or other permissible use;

20 (3) Any person acting pursuant to a court order, warrant,
21 or subpoena;

- 1 (4) A child support enforcement agency when investigating
2 a child support case pursuant to Title IV-D of the
3 Social Security Act (42 U.S.C. sections 651 to 669b);
- 4 (5) The department of the attorney general or county
5 prosecuting attorneys or their agents or assignees
6 acting to investigate medicaid fraud;
- 7 (6) The department of taxation, county taxing authorities,
8 or any of their agents or assignees, acting to
9 investigate or collect delinquent taxes or
10 assessments, including interest and penalties, unpaid
11 court orders, or to fulfill any of their other
12 statutory or charter responsibilities;
- 13 (7) The use of credit information for the purposes of
14 prescreening as provided by the federal Fair Credit
15 Reporting Act (15 U.S.C. sections 1681 to 1681v);
- 16 (8) Any person for the sole purpose of providing a credit
17 file monitoring subscription service to which the
18 consumer has subscribed; and
- 19 (9) A consumer reporting agency for the sole purpose of
20 providing a consumer with a copy of the consumer's
21 credit report upon the consumer's request.



1 § -3 **Consumer reporting agency duties if security freeze**
2 **in place.** If a security freeze is in place, a consumer
3 reporting agency shall not change any of the following official
4 information in a credit report without sending a written
5 confirmation of the change to the consumer within thirty days of
6 the change being posted to the consumer's file: name, date of
7 birth, social security number, and address. Written
8 confirmation is not required for technical modifications of a
9 consumer's official information, including name and street
10 abbreviations, complete spellings, or transposition of numbers
11 or letters. In the case of an address change, the written
12 confirmation shall be sent to both the new address and the
13 former address.

14 § -4 **Persons not required to place security freeze.** The
15 requirement under this chapter to place a security freeze on a
16 credit report does not apply to:

17 (1) A check services or fraud prevention services company
18 that reports on incidents of fraud or issues
19 authorizations for the purpose of approving or
20 processing negotiable instruments, electronic fund
21 transfers, or similar methods of payment;



1 (2) A deposit account information service company that
2 issues reports regarding account closures due to
3 fraud, substantial overdrafts, ATM abuse, or similar
4 negative information regarding a consumer to inquiring
5 banks or other financial institutions for use only in
6 reviewing a consumer request for a deposit account at
7 the inquiring bank or financial institution;

8 (3) A consumer reporting agency that:

9 (A) Acts only to resell credit information by
10 assembling and merging information contained in a
11 database of one or more consumer reporting
12 agencies; and

13 (B) Does not maintain a permanent database of credit
14 information from which new credit reports are
15 produced; and

16 (4) Any person or entity using a credit report in setting
17 or adjusting a rate, adjusting a claim, or
18 underwriting for insurance purposes.

19 § -5 **Violation, penalties.** Any person who violates any
20 provision of this chapter shall be deemed to have engaged in an
21 unfair or deceptive act or practice in the conduct of trade or
22 commerce within the meaning of section 480-2. The attorney



1 general or the director of the office of consumer protection may
2 bring an action based upon unfair or deceptive acts or practices
3 declared unlawful by this section."

4 SECTION 4. This Act shall take effect on January 1, 2007.

Report Title:

Identity Theft; Credit Reports

Description:

Allows consumers who are victims of identity theft to place a security freeze on their credit reports which will prohibit a consumer reporting agency from releasing any information to unauthorized parties without the consumer's express consent and provide consumers more control over who has access to their credit report. (SD1)

