

Nebraska Revised Statute
Chapter 8 – Banks and Banking

§ 8-2601. Act, how cited.

Sections 8-2601 to 8-2615 shall be known and may be cited as the Credit Report Protection Act.

§ 8-2602. Terms, defined.

For purposes of the Credit Report Protection Act:

(1) Consumer reporting agency means any person which, for monetary fees, for 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 parties and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(2) File, when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored;

(3) Minor means a person who is under nineteen years of age;

(4) Security freeze means a notice placed in a consumer's file as provided in section 8-2603 that prohibits the consumer reporting agency from releasing a credit report, or any other information derived from the file, in connection with the extension of credit or the opening of a new account, without the express authorization of the consumer; and

(5) Victim of identity theft means a consumer who has a copy of an official police report evidencing that the consumer has alleged to be a victim of identity theft.

§ 8-2603. Security freeze; request.

A consumer, including a minor at the request of a parent or custodial parent or guardian if appointed, may elect to place a security freeze on his or her file by making a request by certified mail to the consumer reporting agency.

§ 8-2604. Consumer reporting agency; release of credit report or other information prohibited without consumer authorization.

If a security freeze is in place with respect to a consumer's file, the consumer reporting agency shall not release a credit report or any other information derived from the file to a third party without the prior express authorization of the consumer. This section does not prevent a

consumer reporting agency from advising a third party that a security freeze is in effect with respect to a consumer's file.

§ 8-2605. Consumer reporting agency; placement of security freeze; when; written confirmation to consumer.

(1) A consumer reporting agency shall place a security freeze on a file no later than three business days after receiving a request by certified mail.

(2) Until July 1, 2008, a consumer reporting agency shall, within ten business days after receiving a request, send a written confirmation of the security freeze to the consumer and provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of a credit report or any other information derived from his or her file for a specified period of time. Beginning July 1, 2008, a consumer reporting agency shall send such confirmation and provide such identification number or password to the consumer within five business days after receiving a request.

(3) The written confirmation required under subsection (2) of this section shall include a warning which shall read as follows: **WARNING TO PERSONS SEEKING A CREDIT FREEZE AS PERMITTED BY THE CREDIT REPORT PROTECTION ACT: YOU MAY BE DENIED CREDIT AS A RESULT OF A FREEZE PLACED ON YOUR CREDIT.**

§ 8-2606. Consumer reporting agency; disclose process of placing and temporarily lifting security freeze; consumer request to lift freeze; when.

(1) When a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting the security freeze, including the process for allowing access to his or her credit report or any other information derived from his or her file for a specified period of time by temporarily lifting the security freeze.

(2) If a consumer wishes to allow his or her credit report or any other information derived from his or her file to be accessed for a specified period of time by temporarily lifting the security freeze, the consumer shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

(a) Proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to provide sufficiently self-identifying information may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify the consumer's identity;

(b) The unique personal identification number or password provided by the consumer reporting agency under section 8-2605; and

(c) The proper information regarding the specified time period.

(3)(a) Until January 1, 2009, a consumer reporting agency that receives a request from a consumer to temporarily lift a security freeze on his or her file shall comply with the request no later than three business days after receiving the request.

(b) A consumer reporting agency shall develop procedures involving the use of a telephone, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a security freeze on his or her file in an expedited manner. By January 1, 2009, a consumer reporting agency shall comply with a request to temporarily lift a security freeze within fifteen minutes after receiving such request by telephone or through a secure electronic method.

(4) A consumer reporting agency is not required to temporarily lift a security freeze within the time provided in subsection (3) of this section if:

(a) The consumer fails to meet the requirements of subsection (2) of this section; or

(b) The consumer reporting agency's ability to temporarily lift the security freeze within the time provided in subsection (3) of this section is prevented by:

(i) An act of God, including fire, earthquake, hurricane, storm, or similar natural disaster or phenomena;

(ii) An unauthorized or illegal act by a third party, including terrorism, sabotage, riot, vandalism, labor strike or dispute disrupting operations, or similar occurrence;

(iii) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failure inhibiting response time, or similar disruption;

(iv) Governmental action, including an emergency order or regulation, judicial or law enforcement action, or similar directive;

(v) Regularly scheduled maintenance, during other than normal business hours, of the consumer reporting agency's system or updates to such system;

(vi) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's system that is unexpected or unscheduled; or

(vii) Receipt of a removal request outside of normal business hours.

For purposes of this subsection, normal business hours means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., in the applicable time zone in this state.

§ 8-2607. Security freeze; duration; consumer reporting agency; place hold on file; release; notice; temporarily lift security freeze; removal of freeze; request from consumer.

(1) A security freeze shall remain in place, subject to being put on hold or temporarily lifted as otherwise provided in this section, until the consumer reporting agency receives a request from the consumer to remove the freeze under section 8-2608.

(2) A consumer reporting agency may place a hold on a file due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to release a hold on a file, the consumer reporting agency shall notify the consumer in writing three business days prior to releasing the hold on the file.

(3) A consumer reporting agency shall temporarily lift a security freeze only upon request by the consumer under section 8-2606.

(4) A consumer reporting agency shall remove a security freeze upon the date that the consumer reporting agency receives a request from the consumer to remove the freeze under section 8-2608.

§ 8-2608. Consumer reporting agency; mandatory removal of security freeze; conditions.

A consumer reporting agency shall remove a security freeze within three business days after receiving a request for removal from the consumer who provides both of the following:

(1) Proper identification as specified in subdivision (2)(a) of section 8-2606; and

(2) The unique personal identification number or password referred to in subdivision (2)(b) of section 8-2606.

§ 8-2609. Consumer reporting agency; fee authorized; exceptions.

(1) A consumer reporting agency may charge a fee of three dollars for placing, temporarily lifting, or removing a security freeze unless:

(a) The consumer is a minor; or

(b)(i) The consumer is a victim of identity theft; and

(ii) The consumer provides the consumer reporting agency with a copy of an official police report documenting the identity theft.

(2) A consumer reporting agency shall reissue the same or a new personal identification number or password required under section 8-2605 one time without charge and may charge a fee of no more than five dollars for subsequent reissuance of the personal identification number or password.

§ 8-2610. Consumer reporting agency; changes to official information in file; written confirmation to consumer required; exceptions.

If a security freeze is in place, a consumer reporting agency may not change any of the following official information in a file without sending a written confirmation of the change to the consumer within thirty days after the change is made: Name, date of birth, social security number, and address. In the case of an address change, the written confirmation shall be sent to both the new address and the former address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters.

§ 8-2611. Consumer reporting agency; restrictions with respect to third parties; request by third party; how treated.

(1) A consumer reporting agency may not suggest or otherwise state or imply to a third party that a security freeze on a consumer's file reflects a negative credit score, history, report, or rating.

(2) If a third party requests access to a credit report or any other information derived from a file in connection with an application for credit or the opening of an account and the consumer has placed a security freeze on his or her file and does not allow his or her file to be accessed during that specified period of time, the third party may treat the application as incomplete.

§ 8-2612. Consumer reporting agency; information furnished to governmental agency.

The Credit Report Protection Act does not prohibit a consumer reporting agency from furnishing to a governmental agency a consumer's name, address, former address, place of employment, or former place of employment.

§ 8-2613. Act; use of credit report or information derived from file; applicability.

The Credit Report Protection Act does not apply to the use of a credit report or any information derived from the file by any of the following:

(1) A person or entity, a subsidiary, affiliate, or agent of that person or entity, an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity 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 collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this subdivision, reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under section 8-2606 for purposes of facilitating the extension of credit or other permissible use;

(3) Any federal, state, or local governmental entity, including, but not limited to, a law enforcement agency, a court, or an agent or assignee of a law enforcement agency or court;

(4) A private collection agency acting under a court order, warrant, or subpoena;

(5) Any person or entity for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act, 15 U.S.C. 1681, as such act existed on September 1, 2007;

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

(7) Any person or entity for the purpose of providing a consumer with a copy of the consumer's credit report or any other information derived from his or her file upon the consumer's request; and

(8) Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes.

§ 8-2614. Entities not considered consumer reporting agencies; not required to place security freeze on file.

The following entities are not consumer reporting agencies for purposes of the Credit Report Protection Act and are not required to place a security freeze on a file under section 8-2603:

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

(2) A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; and

(3) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency, or multiple consumer reporting agencies, and does not maintain a permanent data base of credit information from which new credit reports are produced. A consumer reporting agency shall honor any security freeze placed on a file by another consumer reporting agency.

§ 8-2615. Enforcement of act; Attorney General; powers and duties; violation; civil penalty; recovery of damages.

The Attorney General shall enforce the Credit Report Protection Act. For purposes of the act, the Attorney General may issue subpoenas, adopt and promulgate rules and regulations, and seek injunctive relief and a monetary award for civil penalties, attorney's fees, and costs. Any person

who violates the act shall be subject to a civil penalty of not more than two thousand dollars for each violation. The Attorney General may also seek and recover actual damages for each consumer injured by a violation of the act.