

General Laws of Rhode Island

Title 6 – Commercial Law

Ch. 48 – Consumer Empowerment and Identity Theft Prevention Act of 2006

§ 6-48-4 Definitions. – As used in this chapter:

(a) "Person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) "Consumer" means an individual who is also a resident of this state.

(c) "Consumer reporting agency" has the meaning ascribed to it in 15 U.S.C. § 1681(a)(f).

(d) "Consumer report" has the meaning ascribed to it in 15 U.S.C. § 1681(a)(d).

(e) "Credit card" has the same meaning as in § 103 of 15 U.S.C. § 1601 et. seq. (The Truth in Lending Act.)

(f) "Debit card" means any card or device issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account holding assets of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

(g) "Proper identification" means proper identification as defined in 15 U.S.C. § 1681h(a)(1).

(h) "Security freeze" means a notice placed in a consumer's credit report at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer's credit report or score related to the extension of credit.

(i) "Reviewing the account" or "account review" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

§ 6-48-5 Security freeze – Timing, covered entities, cost. –

(a) A consumer may elect to place a "security freeze" on his or her credit report by making a request by certified mail to a consumer reporting agency at an address designated by the consumer reporting agency to receive such requests.

(b) A consumer reporting agency shall place a security freeze on a consumer's credit report no later than five (5) business days after receiving from the consumer:

(1) A written request as described in subsection (a);

(2) Proper identification; and

(3) Payment of a fee, if applicable.

(c) The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten (10) business days of placing the freeze and at the same time shall provide the consumer with a unique personal identification number, password or similar device to be used by the consumer when providing authorization for the release of his or her credit for a specific period of time, or when permanently removing the freeze.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific period of time while a freeze is in place, he or she shall contact the consumer reporting agency, using a point of contact designated by the consumer reporting agency request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification;

(2) The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection (c) of this section;

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

(4) A fee if applicable.

(e) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request no later than three (3) business days after receiving the request.

(f) A consumer reporting agency may develop procedures involving the use of telephone, fax, or, upon the consent of the consumer in the manner required by the Electronic Signatures in Global and National Commerce Act hereinafter referred to as ("E-Sign") for legally required notices, by the Internet, e-mail, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

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

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section; and

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

(h) If a third-party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her credit report to be accessed, then the third-party may treat the application as incomplete.

(i) A security freeze shall remain in place until the consumer requests using a point of contact designated by the consumer reporting agency, that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three (3) business days of receiving a request for removal from the consumer, who provides all of the following:

(1) Proper identification;

(2) The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection (c) of this section; and

(3) A fee, if applicable.

(j) A consumer reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

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

(l) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt;

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

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

(4) A state or local agency which administers a program for establishing and enforcing child support obligations;

(5) The department of health or its agents or assigns acting to investigate fraud;

(6) The attorney general or its agents or assigns acting to investigate fraud;

- (7) The division of taxation or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;
 - (8) The use of a credit report by a person for purposes of prescreening as defined by the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et. seq.);
 - (9) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;
 - (10) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request; and
 - (11) Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes.
- (m) A consumer may be charged a fee of no more than ten dollars (\$10.00) for any security freeze services, including, but not limited to, the placement, temporary lifting and permanent removal of a security freeze. The consumer may not be charged for a one-time reissue of a new personal identification number; provided, however, the consumer may be charged not more than five dollars (\$5.00) for subsequent instances of loss of the personal identification number. However, a consumer reporting agency may not charge any fee to a victim of identity theft who has submitted a copy of an incident report from or a complaint to a law enforcement agency, or to a consumer who is of sixty-five (65) years of age or older.

Entities not required to place a security freeze.

(a) The following entities are not required to place a security freeze on a credit report:

- (1) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer credit reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit report are produced. However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency.
- (2) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments.
- (3) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM 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.

(4) Any database or file which consists of any information adverse to the interests of the consumer, including, but not limited to, criminal record information, personal loss history information, information used for fraud prevention or detection, tenant screening, and employment screening.

§ 6-48-6 Notice of rights. – At any time that a consumer is required to receive a summary of rights required under section 609 of the federal Fair Credit Reporting Act, (15 U.S.C. § 1681 et. seq.) the following notice shall be included:

Consumers have the right to obtain a security freeze

You may obtain a security freeze on your credit report to protect your privacy and ensure that credit is not granted in your name without your knowledge. You have a right to place a "security freeze" on your credit report pursuant to the R.I.G.L. chapter 6-48 to the Identity Theft Prevention Act of 2006.

The security freeze will prohibit a consumer reporting agency from releasing any information in your credit report without your express authorization or approval.

The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. When you place a security freeze on your credit report, within five (5) business days you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or to temporarily authorize the release of your credit report for a specific period of time after the freeze is in place. To provide that authorization, you must contact the consumer reporting agency and provide all of the following:

- (1) The unique personal identification number or password provided by the consumer reporting agency.
- (2) Proper identification to verify your identity.
- (3) The proper information regarding the period of time for which the report shall be available to users of the credit report.

A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report shall comply with the request no later than three (3) business days after receiving the request.

A security freeze does not apply to circumstances where you have an existing account relationship and a copy of your report is requested by your existing creditor or its agents or affiliates for certain types of an account review, collection, fraud control or similar activities.

If you are actively seeking a new credit, loan, utility, telephone, or insurance account, you should understand that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a freeze – either completely if you are shopping around, or specifically for a certain creditor – with enough advance notice before you apply for new credit for the lifting to take effect.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a consumer reporting agency or a user of your credit report.

Unless you are sixty-five (65) years of age or older, or you are a victim of identity theft with an incident report or complaint from a law enforcement agency, a consumer reporting agency has the right to charge you up to ten dollars (\$10.00) to place a freeze on your credit report, up to ten dollars (\$10.00) to temporarily lift a freeze on your credit report, depending on the circumstances, and up to ten dollars (\$10.00) to remove a freeze from your credit report. If you are sixty-five (65) years of age or older or are a victim or [of] identity theft with a valid incident report or complaint, you may not be charged a fee by a consumer reporting agency for placing, temporarily lifting, or removing a freeze.

§ 6-48-7 Violations; Penalties. [Effective January 1, 2007]. –

(a) Any person who willfully fails to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (1) Any actual damages sustained by the consumer as a result of the failure or damages of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000); or
- (2) Such amount of punitive damages as the court allows; and
- (3) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

(b) Any person who obtains a consumer report, requests a security freeze, requests the temporary lift of a freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.

(c) Any person who is negligent in failing to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (1) Any actual damages sustained by the consumer as a result of the failure and;
- (2) In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

(d) Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this chapter was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorneys' fees

reasonable in relation to the work expended in responding to the pleading, motion, or other paper.