

# Senate File 2277 - Enrolled

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1 1 SENATE FILE 2277

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1 3 AN ACT

1 4 RELATING TO OFFENSES AGAINST IDENTITY BY ESTABLISHING A

1 5 PROCEDURE TO SECURE CREDIT INFORMATION AND PROVIDING A

1 6 PENALTY.

1 7

1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 9

1 10 Section 1. NEW SECTION. 714F.1 DEFINITIONS.

1 11 For the purposes of this chapter, unless the context

1 12 otherwise requires:

1 13 1. "Consumer" means an individual who is a resident of  
1 14 this state.

1 15 2. "Consumer credit report" means a consumer report, as  
1 16 defined in 15 U.S.C. } 1681a, that is used or collected in  
1 17 whole or in part for the purpose of serving as a factor in  
1 18 establishing a consumer's eligibility for credit for personal,  
1 19 family, or household purposes.

1 20 3. "Consumer reporting agency" means the same as defined  
1 21 in 15 U.S.C. } 1681a(f). A consumer reporting agency does not  
1 22 include any of the following:

1 23 a. A check service or fraud prevention service company  
1 24 that reports on incidents of fraud or issues authorizations  
1 25 for the purpose of approving or processing negotiable  
1 26 instruments, electronic fund transfers, or similar methods of  
1 27 payment.

1 28 b. A deposit account information service company that  
1 29 issues reports regarding account closures due to fraud,  
1 30 overdrafts, automated teller machine abuse, or similar  
1 31 negative information regarding a consumer to inquiring  
1 32 financial institutions for use only in reviewing the  
1 33 consumer's request for a deposit account at the inquiring  
1 34 financial institution.

1 35 c. Any person or entity engaged in the practice of

2 1 assembling and merging information contained in a database of  
2 2 one or more consumer reporting agencies and does not maintain  
2 3 a permanent database of credit information from which new  
2 4 consumer reports are produced.

2 5 4. "Identification information" means as defined in  
2 6 section 715A.8.

2 7 5. "Identity theft" means as used in section 715A.8.

2 8 6. "Normal business hours" means Sunday through Saturday,  
2 9 between the hours of 6:00 a.m. and 9:30 p.m., central standard  
2 10 time or central daylight saving time.

2 11 7. "Proper identification" means the same as defined in 15  
2 12 U.S.C. } 1681h(a)(1).

2 13 8. "Security freeze" means a notice placed in a consumer  
2 14 credit report, at the request of the consumer and subject to  
2 15 certain exceptions, that prohibits a consumer reporting agency  
2 16 from releasing the consumer credit report or score relating to  
2 17 the extension of credit.

2 18 Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.

2 19 A consumer may submit by certified mail to a consumer  
2 20 reporting agency a written request for a security freeze. The  
2 21 consumer must submit proper identification and the applicable  
2 22 fee with the request. Within five business days after  
2 23 receiving the request, the consumer reporting agency shall  
2 24 commence the security freeze. Within ten business days after  
2 25 commencing the security freeze, the consumer reporting agency  
2 26 shall send a written confirmation to the consumer of the  
2 27 security freeze, a personal identification number or password,  
2 28 other than the consumer's social security number, for the  
2 29 consumer to use in authorizing the suspension or removal of  
2 30 the security freeze, including information on how the security  
2 31 freeze may be temporarily suspended.

2 32 Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.

2 33 1. A consumer may request that a security freeze be  
2 34 temporarily suspended to allow the consumer reporting agency  
2 35 to release the consumer credit report for a specific time

3 1 period. The consumer reporting agency may develop procedures  
3 2 to expedite the receipt and processing of requests which may  
3 3 involve the use of telephones, facsimile transmissions, the  
3 4 internet, or other electronic media. The consumer reporting  
3 5 agency shall comply with the request within three business  
3 6 days after receiving the consumer's written request, or within  
3 7 fifteen minutes after the consumer's request is received by  
3 8 the consumer reporting agency through facsimile, the internet,  
3 9 or other electronic contact method chosen by the consumer  
3 10 reporting agency, or the use of a telephone, during normal  
3 11 business hours. The consumer's request shall include all of  
3 12 the following:

3 13 a. Proper identification.

3 14 b. The personal identification number or password provided  
3 15 by the consumer reporting agency.

3 16 c. Explicit instructions of the specific time period  
3 17 designated for suspension of the security freeze.

3 18 d. Payment of the applicable fee.

3 19 2. A consumer reporting agency need not remove a security  
3 20 freeze within the timeframes provided in subsection 1 if the  
3 21 consumer fails to meet the requirements of subsection 1, or  
3 22 the ability of the consumer reporting agency to remove the  
3 23 security freeze within fifteen minutes is prevented by one of  
3 24 the following:

3 25 a. An act of God, including a fire, earthquake, hurricane,  
3 26 storm, or similar natural disaster or phenomenon.

3 27 b. Unauthorized or illegal acts by a third party,  
3 28 including terrorism, sabotage, riot, vandalism, labor strikes  
3 29 or disputes disrupting operations, or similar occurrences.

3 30 c. Operational interruption, including electrical failure,  
3 31 unanticipated delay in equipment or replacement part delivery,  
3 32 computer hardware or software failures inhibiting response  
3 33 time, or similar disruption.

3 34 d. Governmental action, including emergency orders or  
3 35 regulations, judicial law enforcement action, or similar

4 1 directives.

4 2 e. Regularly scheduled maintenance, during other than  
4 3 normal business hours, of the consumer reporting agency's  
4 4 systems, or updates to the consumer reporting agency's  
4 5 systems.

4 6 f. Commercially reasonable maintenance of, or repair to,  
4 7 the consumer reporting agency's systems that is unexpected or  
4 8 unscheduled.

4 9 g. Receipt of a removal request outside of normal business  
4 10 hours.

4 11 Sec. 4. NEW SECTION. 714F.4 REMOVAL.

4 12 A security freeze remains in effect until the consumer  
4 13 requests that the security freeze be removed. A consumer  
4 14 reporting agency shall remove a security freeze within three  
4 15 business days after receiving a request for removal that  
4 16 includes proper identification of the consumer, the personal  
4 17 identification number or password provided by the consumer  
4 18 reporting agency, and payment of the applicable fee.

4 19 Sec. 5. NEW SECTION. 714F.5 FEES.

4 20 1. A consumer reporting agency shall not charge any fee to  
4 21 a consumer who is the victim of identity theft for commencing  
4 22 a security freeze, temporary suspension, or removal if with  
4 23 the initial security freeze request, the consumer submits a  
4 24 valid copy of the police report concerning the unlawful use of  
4 25 identification information by another person.

4 26 2. A consumer reporting agency may charge a fee not to  
4 27 exceed ten dollars to a consumer who is not the victim of  
4 28 identity theft for each security freeze, removal, or for  
4 29 reissuing a personal identification number or password if the  
4 30 consumer fails to retain the original number. The consumer  
4 31 reporting agency may charge a fee not to exceed twelve dollars  
4 32 for each temporary suspension of a security freeze.

4 33 Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

4 34 If a third party requests a consumer credit report that is  
4 35 subject to a security freeze, the consumer reporting agency

5 1 may advise the third party that a security freeze is in  
5 2 effect. If the consumer does not expressly authorize the  
5 3 third party to have access to the consumer credit report  
5 4 through a temporary suspension of the security freeze, the  
5 5 third party shall not be given access to the consumer credit  
5 6 report but may treat a credit application as incomplete.

5 7 Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

5 8 A consumer reporting agency may suspend or remove a  
5 9 security freeze upon a material misrepresentation of fact by  
5 10 the consumer. However, the consumer reporting agency shall  
5 11 send notice to the consumer in writing prior to suspending or  
5 12 removing the security freeze.

5 13 Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

5 14 A security freeze shall not apply to the following persons  
5 15 or entities:

5 16 1. A person or person's subsidiary, affiliate, agent, or  
5 17 assignee with which the consumer has or prior to assignment  
5 18 had an account, contract, or debtor=creditor relationship for  
5 19 the purposes of reviewing the account or collecting the  
5 20 financial obligation owing for the account, contract, or debt,  
5 21 or extending credit to a consumer with a prior or existing  
5 22 account, contract, or debtor=creditor relationship.

5 23 "Reviewing the account" includes activities related to account  
5 24 maintenance, monitoring, credit line increases, and account  
5 25 upgrades and enhancements.

5 26 2. A subsidiary, affiliate, agent, assignee, or  
5 27 prospective assignee of a person to whom access has been  
5 28 granted under a temporary suspension for purposes of  
5 29 facilitating the extension of credit or another permissible  
5 30 use.

5 31 3. A person acting pursuant to a court order, warrant, or  
5 32 subpoena.

5 33 4. Child support enforcement officials when investigating  
5 34 a child support case pursuant to Title IV-D or Title XIX of  
5 35 the federal Social Security Act.

6 1 5. The department of human services or its agents or  
6 2 assignees acting to investigate fraud under the medical  
6 3 assistance program.

6 4 6. The department of revenue or local taxing authorities;  
6 5 or any of their agents or assignees, acting to investigate or  
6 6 collect delinquent taxes or assessments, including interest  
6 7 and penalties and unpaid court orders, or to fulfill any of  
6 8 their other statutory or other responsibilities.

6 9 7. A person's use of credit information for prescreening  
6 10 as provided by the federal Fair Credit Reporting Act.

6 11 8. A person for the sole purpose of providing a credit  
6 12 file monitoring subscription service to which the consumer has  
6 13 subscribed.

6 14 9. A consumer reporting agency for the sole purpose of  
6 15 providing a customer with a copy of the consumer credit report  
6 16 upon the consumer's request.

6 17 10. A person's use of a consumer credit report in  
6 18 connection with the business of insurance.

6 19 Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.

6 20 After a security freeze is in effect, a consumer reporting  
6 21 agency may post a name, date of birth, social security number,  
6 22 or address change in a consumer credit report provided written  
6 23 confirmation is sent to the consumer within thirty days of  
6 24 posting the change. For an address change, written  
6 25 confirmation shall be sent to both the new and former  
6 26 addresses. Written confirmation is not required to correct  
6 27 spelling and typographical errors.

6 28 Sec. 10. NEW SECTION. 714F.10 WAIVER VOID.

6 29 A waiver by a consumer of the provisions of this chapter is  
6 30 contrary to public policy, and is void and unenforceable.

6 31 Sec. 11. NEW SECTION. 714F.11 ENFORCEMENT.

6 32 A person who violates this chapter violates section 714.16,  
6 33 subsection 2, paragraph "a". All powers conferred upon the  
6 34 attorney general to accomplish the objectives and carry out  
6 35 the duties prescribed in section 714.16 are also conferred

7 1 upon the attorney general to enforce this chapter, including  
7 2 but not limited to the power to issue subpoenas, adopt rules,  
7 3 and seek injunctive relief and a monetary award for civil  
7 4 penalties, attorney fees, and costs. Additionally, the  
7 5 attorney general may seek and recover the greater of five  
7 6 hundred dollars or actual damages for each customer injured by  
7 7 a violation of this chapter.

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JOHN P. KIBBIE

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President of the Senate

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PATRICK J. MURPHY

7 17

Speaker of the House

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7 19 I hereby certify that this bill originated in the Senate and  
7 20 is known as Senate File 2277, Eighty-second General Assembly.

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MICHAEL E. MARSHALL

7 25

Secretary of the Senate

7 26 Approved \_\_\_\_\_, 2008

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7 30 CHESTER J. CULVER

7 31 Governor