

Amend CSSB 1952 by inserting the following Section and renumbering accordingly:

PREVENTING AND DETECTING IDENTITY THEFT

SECTION _____. Section 20.01, Business & Commerce Code, is amended by adding Subdivisions (7) and (8) to read as follows:

(7) "Security alert" means a notice placed on a consumer file that alerts a recipient of a consumer report involving that consumer file that the consumer's identity may have been used without the consumer's consent to fraudulently obtain goods or services in the consumer's name.

(8) "Security freeze" means a notice placed on a consumer file that prohibits a consumer reporting agency from releasing a consumer report involving that consumer file without the express authorization of the consumer.

SECTION 2. Section 20.03, Business & Commerce Code, is amended by adding Subsection (d) to read as follows:

(d) Any written disclosure to a consumer by a consumer reporting agency under this chapter must include a written statement that explains in clear and simple language the consumer's rights under this chapter and includes:

(1) the process for receiving a consumer report or consumer file;

(2) the process for requesting or removing a security alert or freeze;

(3) the toll-free telephone number for requesting a security alert;

(4) applicable fees;

(5) dispute procedures;

(6) the process for correcting a consumer file or report; and

(7) information on a consumer's right to bring an action in court or arbitrate a dispute.

SECTION 3. Chapter 20, Business & Commerce Code, is amended by adding Sections 20.031 through 20.038 to read as follows:

Sec. 20.031. REQUESTING SECURITY ALERT. On a request in writing or by telephone and with proper identification provided by a consumer, a consumer reporting agency shall place a security

alert on the consumer's consumer file not later than 24 hours after the date the agency receives the request. The security alert must remain in effect for not less than 90 days after the date the agency places the security alert on the file. There is no limit on the number of security alerts a consumer may request. At the end of a 90-day security alert, on request in writing or by telephone and with proper identification provided by the consumer, the agency shall provide the consumer with a copy of the consumer's file. A consumer may include with the security alert request a telephone number to be used by persons to verify the consumer's identity before entering into a transaction with the consumer.

Sec. 20.032. NOTIFICATION OF SECURITY ALERT. A consumer reporting agency shall notify a person who requests a consumer report if a security alert is in effect for the consumer file involved in that report and include a verification telephone number for the consumer if the consumer has provided a number under Section 20.031.

Sec. 20.033. TOLL-FREE SECURITY ALERT REQUEST NUMBER. A consumer reporting agency shall maintain a toll-free telephone number that is answered at all times to accept security alert requests from consumers.

Sec. 20.034. REQUESTING SECURITY FREEZE. (a) On written request sent by certified mail that includes proper identification provided by a consumer, a consumer reporting agency shall place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request.

(b) On written request for a security freeze provided by a consumer under Subsection (a), a consumer reporting agency shall disclose to the consumer the process of placing, removing, and temporarily lifting a security freeze and the process for allowing access to information from the consumer's consumer file for a specific requester or period while the security freeze is in effect.

(c) A consumer reporting agency shall, not later than the 10th business day after the date the agency receives the request for a security freeze:

(1) send a written confirmation of the security freeze

to the consumer; and

(2) provide the consumer with a unique personal identification number or password to be used by the consumer to authorize a removal or temporary lifting of the security freeze under Section 20.037.

Sec. 20.035. NOTIFICATION OF CHANGE. If a security freeze is in place, a consumer reporting agency shall notify the consumer in writing of a change in the consumer file to the consumer's name, date of birth, social security number, or address not later than 30 calendar days after the date the change is made. The agency shall send notification of a change of address to the new address and former address. This section does not require notice of an immaterial change, including a street abbreviation change or correction of a transposition of letters or misspelling of a word.

Sec. 20.036. NOTIFICATION OF SECURITY FREEZE. A consumer reporting agency shall notify a person who requests a consumer report if a security freeze is in effect for the consumer file involved in that report.

Sec. 20.037. REMOVAL OR TEMPORARY LIFTING OF SECURITY FREEZE. (a) On a request in writing or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password provided under Section 20.034, a consumer reporting agency shall remove a security freeze not later than the third business day after the date the agency receives the request.

(b) On a request in writing or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password provided under Section 20.034, a consumer reporting agency, not later than the third business day after the date the agency receives the request, shall temporarily lift the security freeze for:

- (1) a certain properly designated period; or
- (2) a certain properly identified requester.

(c) A consumer reporting agency may develop procedures involving the use of a telephone, a facsimile machine, the Internet, or another electronic medium to receive and process a request from a consumer under this section.

(d) A consumer reporting agency shall remove a security freeze placed on a consumer file if the security freeze was placed due to a material misrepresentation of fact by the consumer. The consumer reporting agency shall notify the consumer in writing before removing the security freeze under this subsection.

Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security freeze does not apply to a consumer report provided to:

(1) a state or local governmental entity, including a law enforcement agency or court or private collection agency, if the entity, agency, or court is acting under a court order, warrant, subpoena, or administrative subpoena;

(2) a child support agency as defined by Section 101.004, Family Code, acting to investigate or collect child support payments or acting under Title IV-D of the Social Security Act (42 U.S.C. Section 651 et seq.);

(3) the Health and Human Services Commission acting under Section 531.102, Government Code;

(4) the comptroller acting to investigate or collect delinquent sales or franchise taxes;

(5) a tax assessor-collector acting to investigate or collect delinquent ad valorem taxes;

(6) a person for the purposes of prescreening as provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.);

(7) a person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the person's subsidiary, affiliate, agent, assignee, or prospective assignee, for purposes related to that account, contract, or instrument;

(8) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under Section 20.037(b);

(9) a person who administers a credit file monitoring subscription service to which the consumer has subscribed; or

(10) a person for the purpose of providing a consumer with a copy of the consumer's report on the consumer's request.

SECTION 4. Section 20.04, Business & Commerce Code, is

amended to read as follows:

Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES OR SERVICES. (a) Except as provided by Subsection (b), a consumer reporting agency may impose a reasonable charge on a consumer for the disclosure of information pertaining to the consumer or for placing a security freeze on a consumer file. The amount of the charge may not exceed \$8. On January 1 of each year, a consumer reporting agency may increase the charge for disclosure to a consumer or for placing a security freeze. The increase, if any, must be based proportionally on changes to the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor with fractional changes rounded to the nearest 50 cents.

(b) A consumer reporting agency may not charge a fee for:

(1) a request by a consumer for a copy of the consumer's file:

(A) made not later than the 60th day after the date on which adverse action is taken against the consumer; or

(B) made on the expiration of a 90-day security alert;

(2) notification of the deletion of information that is found to be inaccurate or can no longer be verified sent to a person designated by the consumer, as prescribed by Section 611 of the Fair Credit Reporting Act (15 U.S.C. Section 1681i), as amended;

(3) a set of instructions for understanding the information presented on the consumer report; ~~[or]~~

(4) a toll-free telephone number that consumers may call to obtain additional assistance concerning the consumer report or to request a security alert;

(5) a request for a security freeze made by a consumer who has submitted to the consumer reporting agency a copy of a valid police report, investigative report, or complaint made under Section 32.51, Penal Code; or

(6) a request for a security alert made by a consumer.

SECTION 5. Chapter 20, Business & Commerce Code, is amended by adding Sections 20.11 and 20.12 to read as follows:

Sec. 20.11. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The

attorney general may file a suit against a person for:

(1) injunctive relief to prevent or restrain a violation of this chapter; or

(2) a civil penalty in an amount not to exceed \$2,000 for each violation of this chapter.

(b) If the attorney general brings an action against a person under Subsection (a) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees.

(c) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

Sec. 20.12. DECEPTIVE TRADE PRACTICE. A violation of this chapter is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17.

SECTION 6. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.58 to read as follows:

Sec. 35.58. CONFIDENTIALITY OF SOCIAL SECURITY NUMBER. (a) A person, other than government or a governmental subdivision or agency, may not:

(1) intentionally communicate or otherwise make available to the public an individual's social security number;

(2) display an individual's social security number on a card or other device required to access a product or service provided by the person;

(3) require an individual to transmit the individual's social security number over the Internet unless the connection with the Internet is secure or the number is encrypted;

(4) require an individual's social security number for access to an Internet website, unless a password or unique personal identification number or other authentication device is also required for access; or

(5) print an individual's social security number on any materials, other than a form or application, that are sent by mail, unless state or federal law requires that the individual's social security number be included in the materials.

(b) A person that is using an individual's social security

number before January 1, 2004, in a manner prohibited by Subsection (a) may continue that use if:

(1) the use is continuous; and

(2) the person provides annual disclosure to the individual stating that on written request from the individual the person will cease to use the individual's social security number in a manner prohibited by Subsection (a).

(c) A person, other than government or a governmental subdivision or agency, may not deny services to an individual because the individual makes a written request under Subsection (b).

(d) This section does not apply to:

(1) the collection, use, or release of a social security number that is required by state or federal law, including Chapter 552, Government Code; or

(2) the use of a social security number for internal verification or administrative purposes.

SECTION 7. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.59 to read as follows:

Sec. 35.59. VERIFICATION OF CONSUMER IDENTITY. (a) In this section:

(1) "Consumer report" has the meaning assigned by Section 20.01.

(2) "Extension of credit" does not include an increase in the dollar limit of an existing open-end credit plan as defined by Regulation Z (12 C.F.R. Section 226.2), as amended, or any change to, or review of, an existing credit account.

(3) "Security alert" has the meaning assigned by Section 20.01.

(b) A person who receives notification of a security alert under Section 20.032 in connection with a request for a consumer report for the approval of a credit-based application, including an application for an extension of credit, a purchase, lease, or rental agreement for goods, or for an application for a noncredit-related service, may not lend money, extend credit, or authorize an application without taking reasonable steps to verify the consumer's identity.

(c) If a consumer has included with a security alert a specified telephone number to be used for identity verification purposes, a person who receives that number with a security alert must take reasonable steps to contact the consumer using that number before lending money, extending credit, or completing any purchase, lease, or rental of goods, or approving any noncredit-related services.

(d) If a person uses a consumer report to facilitate the extension of credit or for any other transaction on behalf of a subsidiary, affiliate, agent, assignee, or prospective assignee, that person, rather than the subsidiary, affiliate, agent, assignee, or prospective assignee, may verify the consumer's identity.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2003.

(b) Section 35.58, Business & Commerce Code, as added by this Act, takes effect January 1, 2004.