

By: Ellis

S.B. No. 473

A BILL TO BE ENTITLED

AN ACT

1
2 relating to assisting consumers to prevent and detect identity
3 theft.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 20.01, Business & Commerce Code, is
6 amended by adding Subdivisions (7) and (8) to read as follows:

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

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

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

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

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

24 (2) the process for requesting or removing a security

1 alert or freeze;

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

4 (4) applicable fees;

5 (5) dispute procedures;

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

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

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

12 Sec. 20.031. REQUESTING SECURITY ALERT. On a request in
13 writing or by telephone and with proper identification provided by
14 a consumer, a consumer reporting agency shall place a security
15 alert on the consumer's consumer file not later than the fifth
16 business day after the date the agency receives the request. The
17 security alert must remain in effect for not less than 90 days after
18 the date the agency places the security alert on the file. There is
19 no limit on the number of security alerts a consumer may request.
20 At the end of a 90-day security alert, on request in writing or by
21 telephone and with proper identification provided by the consumer,
22 the agency shall provide the consumer with a copy of the consumer's
23 file.

24 Sec. 20.032. NOTIFICATION OF SECURITY ALERT. A consumer
25 reporting agency shall notify a person who requests a consumer
26 report if a security alert is in effect for the consumer file
27 involved in that report.

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

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

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

17 (c) A consumer reporting agency shall, not later than the
18 10th business day after the date the agency receives the request for
19 a security freeze:

20 (1) send a written confirmation of the security freeze
21 to the consumer; and

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

26 Sec. 20.035. NOTIFICATION OF CHANGE. If a security freeze
27 is in place, a consumer reporting agency shall notify the consumer

1 in writing of a change in the consumer file to the consumer's name,
2 date of birth, social security number, or address not later than 30
3 calendar days after the date the change is made. The agency shall
4 send notification of a change of address to the new address and
5 former address. This section does not require notice of an
6 immaterial change, including a street abbreviation change or
7 correction of a transposition of letters or misspelling of a word.

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

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

19 (b) On a request in writing or by telephone and with proper
20 identification provided by a consumer, including the consumer's
21 personal identification number or password provided under Section
22 20.034, a consumer reporting agency, not later than the third
23 business day after the date the agency receives the request, shall
24 temporarily lift the security freeze for:

25 (1) a certain properly designated period; or

26 (2) a certain properly identified requester.

27 (c) A consumer reporting agency may develop procedures

1 involving the use of a telephone, a facsimile machine, the
2 Internet, or another electronic medium to receive and process a
3 request from a consumer under this section.

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

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

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

15 (2) a child support agency as defined by Section
16 101.004, Family Code, acting to investigate or collect child
17 support payments or acting under Title IV-D of the Social Security
18 Act (42 U.S.C. Section 651 et seq.);

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

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

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

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

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

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

9 SECTION 4. Section 20.04, Business & Commerce Code, is
10 amended to read as follows:

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

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

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

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

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

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

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

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

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

17 SECTION 5. Subchapter D, Chapter 35, Business & Commerce
18 Code, is amended by adding Section 35.58 to read as follows:

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

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

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

27 (3) require an individual to transmit the individual's

1 social security number over the Internet unless the connection with
2 the Internet is secure or the number is encrypted;

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

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

11 (b) A person that is using an individual's social security
12 number before January 1, 2004, in a manner prohibited by Subsection
13 (a) may continue that use if:

14 (1) the use is continuous; and

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

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

23 (d) This section does not apply to:

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

27 (2) the use of a social security number for internal

1 verification or administrative purposes.

2 SECTION 6. (a) Except as provided by Subsection (b) of this
3 section, this Act takes effect September 1, 2003.

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