

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 150 - L.D. 382

An Act To Eliminate Certain Fees for Security Freezes and Allow Security Freezes for Minors

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §1308, sub-§§6-A, 6-B, 7-A, 7-B and 7-C are enacted to read:

6-A. Protected consumer. "Protected consumer" means an individual who has not attained 16 years of age at the time a request for the placement of a security freeze is made.

6-B. Representative. "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

7-A. Security freeze for a protected consumer. "Security freeze for a protected consumer" means:

A. If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(1) Is placed on the protected consumer's record in accordance with section 1310, subsection 1-A; and

(2) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or

B. If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(1) Is placed on the protected consumer's consumer report in accordance with section 1310, subsection 1-A; and

(2) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in section 1310, subsection 1-A.

7-B. Sufficient proof of authority. "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer. "Sufficient proof of authority" includes, but is not limited to:

A. An order issued by a court of law; or

B. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

7-C. Sufficient proof of identification. "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer. "Sufficient proof of identification" includes, but is not limited to:

A. A social security number or a copy of a social security card issued by the federal Social Security Administration;

B. A certified or official copy of a birth certificate; or

C. A copy of a driver's license, an identification card issued by the Secretary of State pursuant to Title 29-A, section 1410 or any other government-issued photo identification.

Sec. 2. 10 MRSA §1310, sub-§1, ¶A, as enacted by PL 2013, c. 228, §1, is amended to read:

A. A consumer may place a security freeze on the consumer's consumer report as follows.

(1) A consumer who has been the victim of identity theft may place a security freeze on the consumer's consumer report by making a request in writing by certified mail to a consumer reporting agency with a valid copy of a police report, investigative report or complaint the consumer has filed with a law enforcement agency about unlawful use of personal information by another person. In the case of a victim of identity theft, a consumer reporting agency may not charge a fee for placing, removing or suspending for a specific party or period of time a security freeze on a consumer report.

This subparagraph is repealed October 1, 2015.

(2) ~~A~~ Prior to October 1, 2015, a consumer who has not been the victim of identity theft may place a security freeze on the consumer's consumer report by making a request in writing by certified mail to a consumer reporting agency. A consumer reporting agency may charge a fee of no more than \$10 to a consumer for each security freeze, removal of a security freeze or temporary suspension of a security freeze for a period of time or for reissuing the same or a new personal identification number if the consumer fails to retain the original personal identification number provided by the agency under paragraph D. A consumer reporting agency may charge a fee of not more than \$12 for a temporary suspension of a security freeze for a specific party. Beginning October 1, 2015, a consumer reporting agency may not charge a fee for placing, removing or suspending for a specific party or period of time a security freeze on a consumer report.

Sec. 3. 10 MRSA §1310, sub-§1-A is enacted to read:

1-A. Security freeze for a protected consumer. Beginning October 1, 2015, a person subject to this chapter shall comply with the following provisions regarding a security freeze for a protected consumer.

A. A consumer reporting agency shall place a security freeze for a protected consumer if:

(1) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this subsection; and

(2) The protected consumer's representative:

(a) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(b) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(c) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(d) Pays to the consumer reporting agency any fee, as provided in paragraph H.

B. If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a request under this subsection, the consumer reporting agency shall create a record for the protected consumer.

This record may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living for any purpose listed in 15 United States Code, Section 1681b.

C. Within 30 days after receiving a request that meets the requirements of this subsection, a consumer reporting agency shall place a security freeze for the protected consumer on the record created for the protected consumer or on the file pertaining to the protected consumer in the event that the consumer reporting agency already has a file pertaining to the protected consumer.

D. Unless a security freeze for a protected consumer is removed in accordance with this subsection, a consumer reporting agency may not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

E. A security freeze for a protected consumer placed under this subsection remains in effect until:

(1) The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with this subsection; or

(2) The security freeze is removed in accordance with paragraph F or I.

F. If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) Provide to the consumer reporting agency:

(a) In the case of a request by the protected consumer:

(i) Proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid or that the protected consumer has attained the age of 16; and

(ii) Sufficient proof of identification of the protected consumer; or

(b) In the case of a request by the representative of a protected consumer:

(i) Sufficient proof of identification of the protected consumer and the representative; and

(ii) Sufficient proof of authority to act on behalf of the protected consumer; and

(3) Pay to the consumer reporting agency any fee authorized in paragraph H.

G. Within 30 days after receiving a request that meets the requirements for removing a security freeze for a protected consumer, the consumer reporting agency shall remove the security freeze.

H. A consumer reporting agency may charge a reasonable fee, not exceeding \$10 for each placement or removal of a security freeze for a protected consumer, except that a consumer reporting agency may not charge a fee for placement or removal of a security freeze for a protected consumer if:

(1) The protected consumer or the protected consumer's representative:

(a) Has obtained a report of alleged identity theft or fraud against the protected consumer; and

(b) The representative provides a copy of the report to the consumer reporting agency;

(2) The consumer reporting agency has a consumer report pertaining to the protected consumer; or

(3) The protected consumer or the protected consumer's representative:

(a) Receives a notice from an information broker or other person of a security breach as required by section 1348; and

(b) Provides a copy of that notice to the consumer reporting agency.

I. A consumer reporting agency shall remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

J. The provisions of this subsection do not apply to the use of a consumer report by:

(1) A person administering a credit file monitoring subscription service to which the protected consumer has subscribed or to which a representative has subscribed on behalf of a protected consumer;

(2) A consumer reporting agency for the sole purpose of providing the protected consumer or the protected consumer's representative a copy of the protected consumer's consumer report upon the request of the protected consumer or the protected consumer's representative;

(3) An entity described in subsection 1, paragraph M, subparagraphs (3), (4), (5) and (10); or

(4) A consumer reporting agency's database or file that consists of information concerning, and used for, one or more of the following: criminal record information, fraud prevention or detection, personal loss history information, and employment, tenant or background screening.

K. A person may not be held liable for any violation of this subsection if the person shows by a preponderance of the evidence that at the time of the alleged violation the person maintained reasonable procedures to ensure compliance with the provisions of this subsection.

For the purposes of this subsection, "record" means a compilation of information that identifies a protected consumer and is created by a consumer reporting agency solely for the purpose of complying with section 1310, subsection 1-A.

Sec. 4. 10 MRSA §1310, sub-§3, as enacted by PL 2013, c. 228, §1, is amended to read:

3. Persons not required to place security freeze. The following persons are not required to place ~~on a consumer report~~ a security freeze pursuant to subsection 1 ~~or 1-A~~, except that any person that is not required to place a security freeze ~~on a consumer report~~ under the provisions of subsection 1 ~~or 1-A~~ is subject to a security freeze placed ~~on a consumer report~~ by another consumer reporting agency from which it obtains information:

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

B. A deposit account information services company that issues reports regarding account closures due to fraud, overdrafts, automated teller machine abuse or similar

negative information regarding a consumer to inquiring financial institutions for use only in reviewing that consumer's request for a deposit account at the inquiring financial institution; and

C. A consumer reporting agency that:

- (1) Acts only to resell credit information by assembling and merging information contained in a database of one or more consumer reporting agencies; and
- (2) Does not maintain a permanent database of credit information from which new consumer reports are produced.