Consumers Union

Publisher of Consumer Reports

Freeze Identity Thieves Out of Consumers' Credit Files:
Support State Credit Report Security Freeze Laws

Credit card companies, merchants, credit bureaus and other businesses do not adequately safeguard consumers' private financial information, making it relatively easy for thieves to steal this data and use it to take out new credit or to rack up charges on existing accounts. As a result, identity theft is one of the fastest growing financial crimes. Nearly 10 million Americans fall victim each year, and the Identity Theft Resource Center reports that victims in 2004 paid between $851 and $1373 in out of pocket expenses (excluding a median of $4000 per victim in lost wages) and 330 hours to restore their credit histories and their good names. Identity theft also costs U.S. businesses nearly $48 billion and consumers $5 billion annually.

Consumers need additional tools to help prevent identity theft before it happens. In 2005, eight states passed legislation, and several states continue to consider legislation, that would allow people to lock identity thieves out of their credit files with a security freeze. With a security freeze in place, a consumer's credit report and credit score cannot be shared with any potential creditors unless the consumer decides to unlock the files by contacting the credit bureaus and providing a security code.

A security freeze can help prevent identity theft. Most businesses will not issue new credit or loans to an individual without first reviewing his or her credit report or credit score. If an individual's credit file is frozen and an imposter applies for credit in that individual's name, a creditor likely would deny the imposter's application, preventing an instance of identity theft.

In addition, if a request for credit is made on a frozen account, then the credit bureau would be required to notify the consumer about the attempted fraud.

Under this proposed legislation, people who choose to freeze access to their credit report may temporarily lift the freeze for new loans and credit they apply for themselves. When a consumer initially activates the freeze, the credit bureau will issue a unique PIN to the consumer that can be used to "thaw" or lift the security freeze for a particular creditor. Credit bureaus must release the report within three business days of such a request, and are permitted and encouraged to develop faster methods of releasing credit reports on request of the consumer. In addition, existing creditors will continue to have access to an individual's credit report.

The proposed state laws would give consumers the right to decide for themselves whether or not to place a security freeze on their reports.

Frequently Asked Questions

How is a security freeze different from fraud alerts or blocking of information generated by a thief?

A security freeze is a mechanism to prevent identity theft. Only a security freeze allows the consumer to control who has access to his or her credit file. The federal Fair Credit Reporting Act allows identity theft victims to block the reporting of specific information in their credit reports that is the result of identity theft. But fraud blocking is a way to begin to undo damage after it has been done. Fraud blocking does not prevent identity theft. Fraud blocking does not prevent the release of a credit report; it only limits certain fraud-related information from being included in the report after the consumer discovers that information. Similarly, a fraud alert does not prevent a credit report from being issued. Under the federal Fair Credit Reporting Act, when a fraud alert is attached to a credit file, creditors must take additional steps to verify a credit applicant's identity before extending credit. The fraud alert, however, does not prevent the potential creditor from seeing the report, and it does not prevent the credit bureau from selling or sharing the credit report.

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Exhibit #11

A security freeze grants each consumer the right to prevent the credit bureau from issuing his or her credit report for the purpose of issuing new credit. It freezes access to the report except for circumstances such as review of existing accounts, other limited purposes, or the express permission of the consumer.

Would anyone have access to a consumer's credit file if it is frozen?

Yes, these proposed state bills include a few necessary exemptions to the freeze. Security freezes would not apply to any person or entity with which consumers have existing accounts, nor to a limited number of other parties who may access the files for purposes not related to issuing credit, such as law enforcement agencies and certain governmental agencies that need them for investigations and other statutory responsibilities.

Do states have the right to enact security freeze legislation under federal law?

A state law establishing a security freeze right should not be preempted by the federal Fair Credit Reporting Act. No provision of federal law preempts the ability of a state to restrict when a credit reporting agency allows access to a credit report. Federal law addresses the contents of credit files, not who can see them. Federal law also requires credit bureaus, upon the request of a consumer to: put a fraud alert into the consumer's file to warn potential users of the report that new credit should not be extended without first verifying the identity of the credit applicant, and block the reporting of any information in a consumer's file that the consumer identifies as information resulting from an identity theft. States are preempted from imposing requirements regarding the same conduct required by certain specific provisions of federal law, such as these provisions. States are not preempted from other steps to prevent or mitigate identity theft. States should be free to enact security freeze legislation.

Which states already have security freezes?

California, Colorado, Connecticut, Illinois, Louisiana, Maine, Nevada, North Carolina, New Jersey, Texas, Washington and Vermont have security freeze laws; the Illinois, Texas and Vermont statutes are limited to victims of identity theft. The California and Louisiana laws allow consumers who have not been victims of identity theft to control who gets access to their credit files for credit granting purposes.

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