

AMENDED IN SENATE MAY 8, 2000
AMENDED IN SENATE APRIL 13, 2000

SENATE BILL

No. 1767

Introduced by Senator Bowen
(Coauthor: Assembly Member Alquist)

February 23, 2000

An act to amend ~~Sections 1785.14 and~~ *Section* 1785.15 of, to add Sections 1785.111, ~~1785.112, and 1785.36~~ *and 1785.112* to, and to add Title 1.6G (commencing with Section 1789.40) and Title 1.81 (commencing with Section 1798.80) to Part 4 of Division 3 of, the Civil Code, ~~and to add Section 4002 to the Financial Code,~~ relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

SB 1767, as amended, Bowen. Credit: confidentiality: identity theft.

(1) The Consumer Credit Reporting Agencies Act and the federal Fair Credit Reporting Act provide for the regulation of consumer credit reporting agencies, commonly known as credit bureaus, which collect credit-related information on consumers and report this information to subscribers. The Consumer Credit Reporting Act requires certain notices and disclosures to be provided to consumers with a mailing address in California, including a requirement for providing a copy of a consumer's credit file to the consumer for a reasonable fee not exceeding \$8, and a requirement to provide a toll-free telephone number for certain purposes, including the opportunity for a consumer to elect to have his

or her name removed from lists supplied to creditors that are used to make firm offers of credit, as defined, that were not initiated by the consumer.

This bill would require credit bureaus to also accept identity theft fraud alerts from consumers via a toll-free telephone number, and would allow a consumer ~~who has no intention of applying for credit~~ to request a credit bureau to impose a freeze on release of any information from his or her file. The bill would provide that the freeze would not apply to persons or entities that have a preexisting business relationship with the consumer and that request access to the consumer's credit report information for specified purposes.

(2) Existing law provides for the use of social security numbers as a means of identification in numerous applications.

This bill, notwithstanding any other provision of law, would prohibit any person or entity, or state or local agency, from requiring any person to provide his or her social security number and from using any person's social security number for identification purposes, except with respect to social security, tax, credit, or law enforcement purposes. This bill would also prohibit any person or entity from acquiring or distributing a person's social security number for commercial purposes without the written consent of that person.

~~(3) Existing law requires credit bureaus providing information about consumers to retail sellers intending to issue credit to match, with a reasonable degree of certainty, at least 3 categories of identifying information in a consumer's file with the information provided by the credit grantor.~~

~~This bill would instead require a credit bureau to match specified identifying information, with a reasonable degree of certainty, before providing information on a consumer to a retail seller, including the consumer's first and last name, address, month and date of birth, social security number, driver's license or state-issued identification card number, and place of employment.~~

~~(4) Existing law provides that identity theft is a crime.~~

This bill would require a credit grantor to provide a consumer with a copy of the original credit application submitted by an unauthorized person applying for credit in



the consumer's name if the consumer notifies the credit grantor that he or she is a victim of identity theft, provides specified information, and makes a written request. This bill would impose additional requirements on retail credit grantors who extend credit to consumers who apply for credit in person.

~~(5) Existing law provides for the licensing and regulation of various financial institutions by the Commissioner of Financial Institutions. Existing law provides various consumer remedies relative to the violation of laws relating to credit bureaus and credit transactions.~~

~~This bill would provide that the commissioner is responsible for enforcing the provisions of this bill and other provisions related to credit bureaus, as specified. This bill, in this regard, would authorize the commissioner to impose civil penalties by regulation.~~

~~(6)~~

(4) This bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.111 is added to the Civil
2 Code, to read:

3 1785.111. (a) The toll-free telephone number
4 maintained by a consumer credit reporting agency
5 pursuant to subdivision (d) of Section 1785.11 shall also be
6 staffed to accept identity theft fraud alerts of consumers
7 submitted pursuant to subdivision (k) of Section 1785.16.

8 (b) The toll-free telephone number shall be included
9 in all communications between a consumer credit
10 reporting agency and a consumer and shall be printed in
11 at least 14-point boldface type.

12 SEC. 2. Section 1785.112 is added to the Civil Code, to
13 read:

14 1785.112. A consumer ~~who has no intention of~~
15 ~~applying for any credit~~ may request a consumer credit
16 reporting agency to impose a freeze on release of any
17 information from the consumer's file. The freeze shall be



1 requested in writing, and shall be in effect until the
2 consumer requests the freeze to be lifted. The freeze does
3 not apply to persons or entities that have a preexisting
4 business relationship with the consumer and that request
5 access to credit report information for the purpose of
6 reviewing the account, increasing the credit line on the
7 account, taking collection action on the account, or for
8 other legitimate purposes associated with the existing
9 account. A consumer credit reporting agency shall follow
10 reasonable procedures in implementing this section in
11 order to require proper identification, as defined in
12 subdivision (c) of Section 1785.15, of the person making
13 a request to impose or lift a freeze.

14 ~~SEC. 3. Section 1785.14 of the Civil Code is amended~~
15 ~~to read:~~

16 ~~1785.14. (a) Every consumer credit reporting~~
17 ~~agency shall maintain reasonable procedures designed to~~
18 ~~avoid violations of Section 1785.13 and to limit furnishing~~
19 ~~of consumer credit reports to the purposes listed under~~
20 ~~Section 1785.11. These procedures shall require that~~
21 ~~prospective users of the information identify themselves;~~
22 ~~certify the purposes for which the information is sought~~
23 ~~and certify that the information will be used for no other~~
24 ~~purposes. On and after January 1, 1976, the consumer~~
25 ~~credit reporting agency shall keep a record of the~~
26 ~~purposes as stated by the user. Every consumer credit~~
27 ~~reporting agency shall make a reasonable effort to verify~~
28 ~~the identity of a new prospective user and the uses~~
29 ~~certified by the prospective user prior to furnishing the~~
30 ~~user a consumer report. No consumer credit reporting~~
31 ~~agency may furnish a consumer credit report to any~~
32 ~~person unless the consumer credit reporting agency has~~
33 ~~reasonable grounds for believing that the consumer~~
34 ~~credit report will be used by the person for the purposes~~
35 ~~listed in Section 1785.11. A consumer credit reporting~~
36 ~~agency does not have reasonable grounds for believing~~
37 ~~that a consumer credit report will be used by the person~~
38 ~~for the purposes listed in Section 1785.11 unless all of the~~
39 ~~following requirements are met:~~



1 ~~(1) If the prospective user is a retail seller, as defined~~
2 ~~in Section 1802.3, and intends to issue credit to a consumer~~
3 ~~who appears in person on the basis of an application for~~
4 ~~credit submitted in person, the consumer credit~~
5 ~~reporting agency shall, with a reasonable degree of~~
6 ~~certainty, match at least all of the following identifying~~
7 ~~information within the file maintained by the consumer~~
8 ~~credit reporting agency on the consumer with the~~
9 ~~information provided to the consumer credit reporting~~
10 ~~agency by the retail seller: first and last name, address,~~
11 ~~month and date of birth, social security number, driver's~~
12 ~~license or state-issued identification card number, and~~
13 ~~place of employment. The categories of information shall~~
14 ~~not include mother's maiden name.~~

15 ~~(2) If the prospective user is a retail seller, as defined~~
16 ~~in Section 1802.3, and intends to issue credit to a consumer~~
17 ~~who appears in person on the basis of an application for~~
18 ~~credit submitted in person, the retail seller certifies, in~~
19 ~~writing, to the consumer credit reporting agency that it~~
20 ~~instructs its employees and agents to inspect a photo~~
21 ~~identification of the consumer at the time the application~~
22 ~~was submitted in person. This paragraph does not apply~~
23 ~~to an application for credit submitted by mail.~~

24 ~~(3) If the prospective user intends to extend credit by~~
25 ~~mail pursuant to a solicitation by mail, the extension of~~
26 ~~credit shall be mailed to the same address as on the~~
27 ~~solicitation unless the prospective user verifies any~~
28 ~~address change by, among other methods, contacting the~~
29 ~~person to whom the extension of credit will be mailed.~~

30 ~~(b) Whenever a consumer credit reporting agency~~
31 ~~prepares a consumer credit report, it shall follow~~
32 ~~reasonable procedures to assure maximum possible~~
33 ~~accuracy of the information concerning the individual~~
34 ~~about whom the report relates. These reasonable~~
35 ~~procedures shall include, but not be limited to,~~
36 ~~permanent retention by the consumer credit reporting~~
37 ~~agency in the consumer's file, or a separately~~
38 ~~individualized file, of that portion of the data in the file~~
39 ~~that is used by the consumer credit reporting agency to~~
40 ~~identify the individual consumer pursuant to paragraph~~



1 ~~(1) of subdivision (a). This permanently retained data~~
 2 ~~shall be available for use in either a reinvestigation~~
 3 ~~pursuant to subdivision (a) of Section 1785.16, an~~
 4 ~~investigation where the consumer has filed a police~~
 5 ~~report pursuant to subdivision (k) of Section 1785.16, or~~
 6 ~~a restoration of a file involving the consumer. If the~~
 7 ~~permanently retained identifying information is retained~~
 8 ~~in a consumer's file, it shall be clearly identified in the file~~
 9 ~~in order for an individual who reviews the file to easily~~
 10 ~~distinguish between the permanently stored identifying~~
 11 ~~information and any other identifying information that~~
 12 ~~may be a part of the file. This retention requirement shall~~
 13 ~~not apply to data that is reported in error, that is obsolete,~~
 14 ~~or that is found to be inaccurate through the results of a~~
 15 ~~reinvestigation initiated by a consumer pursuant to~~
 16 ~~subdivision (a) of Section 1785.16.~~

17 ~~(e) No consumer credit reporting agency may~~
 18 ~~prohibit any user of any consumer credit report furnished~~
 19 ~~by the consumer credit reporting agency from disclosing~~
 20 ~~the contents of the consumer credit report to the~~
 21 ~~consumer who is the subject of the report if adverse~~
 22 ~~action may be taken by the user based in whole or in part~~
 23 ~~on the consumer credit report. The act of disclosure to the~~
 24 ~~consumer by the user of the contents of a consumer credit~~
 25 ~~report shall not be a basis for liability of the consumer~~
 26 ~~credit reporting agency or the user under Section 1785.31.~~

27 ~~(d) A consumer credit reporting agency shall provide~~
 28 ~~a written notice to any person who regularly and in the~~
 29 ~~ordinary course of business supplies information to the~~
 30 ~~consumer credit reporting agency concerning any~~
 31 ~~consumer or to whom a consumer credit report is~~
 32 ~~provided by the consumer credit reporting agency. The~~
 33 ~~notice shall specify the person's obligations under this~~
 34 ~~title. Copies of the appropriate code sections shall satisfy~~
 35 ~~the requirement of this subdivision.~~

36 ~~SEC. 4.~~

37 ~~SEC. 3. Section 1785.15 of the Civil Code is amended~~
 38 ~~to read:~~

39 ~~1785.15. (a) A consumer credit reporting agency~~
 40 ~~shall supply files and information required under Section~~



1 1785.10 during normal business hours and on reasonable
2 notice. In addition to the disclosure provided by this
3 chapter and any disclosures received by the consumer,
4 the consumer has the right to request and receive all of
5 the following:

6 (1) Either a decoded written version of the file or a
7 written copy of the file, including all information in the
8 file at the time of the request, with an explanation of any
9 code used.

10 (2) A record of all inquiries, by recipient, which result
11 in the provision of information concerning the consumer
12 in connection with a credit transaction that is not initiated
13 by the consumer and which were received by the
14 consumer credit reporting agency in the six-month
15 period immediately preceding the request for disclosure
16 under this section.

17 (3) The recipients, including end users specified in
18 Section 1785.22, of any consumer credit report on the
19 consumer which the consumer credit reporting agency
20 has furnished:

21 (A) For employment purposes within the two-year
22 period preceding the request.

23 (B) For any other purpose within the six-month
24 period preceding the request.

25 Identification for purposes of this paragraph shall
26 include the name of the recipient or, if applicable, the
27 fictitious business name under which the recipient does
28 business disclosed in full. If requested by the consumer,
29 the identification shall also include the address of the
30 recipient.

31 (b) Files maintained on a consumer shall be disclosed
32 promptly as follows:

33 (1) In person, at the location where the consumer
34 credit reporting agency maintains the trained personnel
35 required by subdivision (d), if he or she appears in person
36 and furnishes proper identification.

37 (2) By mail, if the consumer makes a written request
38 with proper identification for a copy of the file or a
39 decoded written version of that file to be sent to the
40 consumer at a specified address. A disclosure pursuant to



1 this paragraph shall be deposited in the United States
2 mail, postage prepaid, within five business days after the
3 consumer's written request for the disclosure is received
4 by the consumer credit reporting agency. Consumer
5 credit reporting agencies complying with requests for
6 mailings under this section shall not be liable for
7 disclosures to third parties caused by mishandling of mail
8 after those mailings leave the consumer reporting
9 agencies.

10 (3) A summary of all information contained in files on
11 a consumer and required to be provided by Section
12 1785.10 shall be provided by telephone, if the consumer
13 has made a written request, with proper identification for
14 telephone disclosure.

15 (4) Information in a consumer's file required to be
16 provided in writing under this section may also be
17 disclosed in another form if authorized by the consumer
18 and if available from the consumer credit reporting
19 agency. For this purpose a consumer may request
20 disclosure in person pursuant to Section 1785.10, by
21 telephone upon disclosure of proper identification by the
22 consumer, by electronic means if available from the
23 consumer credit reporting agency, or by any other
24 reasonable means that is available from the consumer
25 credit reporting agency.

26 (c) "Proper identification," as used in subdivision (b)
27 means that information generally deemed sufficient to
28 identify a person. Only if the consumer is unable to
29 reasonably identify himself or herself with the
30 information described above, may a consumer credit
31 reporting agency require additional information
32 concerning the consumer's employment and personal or
33 family history in order to verify his or her identity.

34 (d) The consumer credit reporting agency shall
35 provide trained personnel to explain to the consumer any
36 information furnished him or her pursuant to Section
37 1785.10.

38 (e) The consumer shall be permitted to be
39 accompanied by one other person of his or her choosing,
40 who shall furnish reasonable identification. A consumer



1 credit reporting agency may require the consumer to
2 furnish a written statement granting permission to the
3 consumer credit reporting agency to discuss the
4 consumer's file in that person's presence.

5 (f) Any written disclosure by a consumer credit
6 reporting agency to any consumer pursuant to this
7 section shall include a written summary of all rights the
8 consumer has under this title and in the case of a
9 consumer credit reporting agency which compiles and
10 maintains consumer credit reports on a nationwide basis,
11 a toll-free telephone number which the consumer can use
12 to communicate with the consumer credit reporting
13 agency. The written summary of rights required under
14 this subdivision is sufficient if in substantially the
15 following form:

16 "You have a right to obtain a copy of your credit file
17 from a consumer credit reporting agency. You may be
18 charged a reasonable fee not exceeding eight dollars (\$8).
19 There is no fee, however, if you have been turned down
20 for credit, employment, insurance, or a rental dwelling
21 because of information in your credit report within the
22 preceding 60 days. The consumer credit reporting agency
23 must provide someone to help you interpret the
24 information in your credit file.

25 You have a right to dispute inaccurate information by
26 contacting the consumer credit reporting agency
27 directly. However, neither you nor any credit repair
28 company or credit service organization has the right to
29 have accurate, current, and verifiable information
30 removed from your credit report. Under the Federal Fair
31 Credit Reporting Act, the consumer credit reporting
32 agency must remove accurate, negative information
33 from your report only if it is over seven years old.
34 Bankruptcy information can be reported for 10 years.

35 If you have notified a credit reporting agency in writing
36 that you dispute the accuracy of information in your file,
37 the consumer credit reporting agency must then, within
38 30 business days, reinvestigate and modify or remove
39 inaccurate information. The consumer credit reporting
40 agency may not charge a fee for this service. Any



1 pertinent information and copies of all documents you
2 have concerning an error should be given to the
3 consumer credit reporting agency.

4 If reinvestigation does not resolve the dispute to your
5 satisfaction, you may send a brief statement to the
6 consumer credit reporting agency to keep in your file,
7 explaining why you think the record is inaccurate. The
8 consumer credit reporting agency must include your
9 statement about disputed information in a report it issues
10 about you.

11 You have a right to receive a record of all inquiries
12 relating to a credit transaction initiated in six months
13 preceding your request. This record shall include the
14 recipients of any consumer credit report.

15 You may request in writing that the information
16 contained in your file not be provided to a third party for
17 marketing purposes. If you are concerned about identity
18 theft and do not intend to apply for credit in the near
19 future, you may request, in writing, a freeze to be
20 imposed on the information in your file, which, once
21 imposed, will remain in effect until you request to have
22 the freeze lifted. If a freeze is imposed, no information
23 will be released to any grantor of credit, except
24 information about an existing account with a grantor of
25 credit with whom you have a preexisting business
26 relationship, and you may be denied credit until the
27 freeze is lifted.

28 You have a right to bring civil action against anyone
29 who improperly obtains access to a file or knowingly or
30 willfully misuses file data.”

31 ~~SEC. 5. Section 1785.36 is added to the Civil Code, to~~
32 ~~read:~~

33 ~~1785.36. The Director of Financial Institutions shall~~
34 ~~enforce the provisions of this title.~~

35 ~~SEC. 6.~~

36 *SEC. 4.* Title 1.6G (commencing with Section
37 1789.40) is added to Part 4 of Division 3 of the Civil Code,
38 to read:

39



1 TITLE 1.6G. OBLIGATIONS OF CERTAIN CREDIT
2 GRANTORS

3
4 Article 1. General Provisions

5
6 1789.40. The requirements of this title are in addition
7 to other requirements imposed by law.

8 ~~1789.41. The Director of Financial Institutions shall~~
9 ~~enforce the provisions of this title.~~

10
11 Article 2. All Credit Grantors

12
13 ~~1789.42.~~

14 1789.41. A consumer who discovers that an
15 application in his or her name for a loan, credit card, or
16 charge card has been made by an unauthorized person
17 and who provides a written notice that he or she is a
18 victim of identity theft, a copy of the police report filed
19 by the victim pursuant to Section 530.5 of the Penal Code,
20 and a written request, shall be entitled to receive a copy
21 of the original credit application form from the credit
22 grantor, which shall provide the copy within 10 business
23 days of receiving a request.

24 ~~1789.43.~~

25 1789.42. A credit grantor shall not grant credit to a
26 person if a credit report concerning that person obtained
27 by the credit grantor from a consumer credit reporting
28 agency indicates that a fraud alert has been reported to
29 the consumer credit reporting agency pursuant to
30 subdivision (k) of Section ~~1785.15~~ 1785.16 or if the
31 consumer credit reporting agency reports that a credit
32 freeze has been requested pursuant to Section 1785.112.

33 ~~1789.44.~~

34 1789.43. A credit grantor shall include the toll-free
35 telephone number required to be provided by consumer
36 credit reporting agencies pursuant to subdivision (d) of
37 Section 1785.11 on all of the following in at least 14-point
38 boldface type:

39 (a) Firm offers of credit subject to subdivision (b) of
40 Section 1785.11.



1 (b) Letters and other communications sent to a
2 consumer in connection with a credit transaction.

3 (c) Brochures containing disclosures or other
4 information regarding credit.

5

6 Article 3. Retail Seller Credit Grantors

7

8 1789.46. This article shall apply to a credit grantor that
9 is a retail seller, as defined in Section 1802.3, and that
10 intends to issue credit to a consumer.

11 1789.47. A credit grantor subject to this article shall
12 not extend credit to a consumer who appears in person on
13 the basis of an application for credit submitted in person,
14 unless the credit grantor first inspects a photo
15 identification of the consumer at the time the application
16 is submitted in person, and verifies with a consumer
17 credit reporting agency the consumer's first and last
18 name, address, date and month of birth, social security
19 number, driver's license or state-issued identification
20 card number, and place of employment, in a manner
21 consistent with the process described in subdivision (a)
22 of Section 1785.14.

23 1789.48. If a credit grantor subject to this article
24 intends to extend credit by mail pursuant to a solicitation
25 by mail, the extension of credit shall be mailed to the same
26 address as on the solicitation unless the credit grantor
27 verifies any address change by, among other methods,
28 contacting the person to whom the extension of credit
29 will be mailed.

30 ~~SEC. 7.~~

31 SEC. 5. Title 1.81 (commencing with Section 1798.80)
32 is added to Part 4 of Division 3 of the Civil Code, to read:

33

34 TITLE 1.81. CONFIDENTIALITY OF SOCIAL
35 SECURITY NUMBERS

36

37 1798.80. (a) This section shall apply notwithstanding
38 any other provision of law or regulation. Any provision of
39 law or regulation that is inconsistent with this section on



1 or after January 1, 2001, shall not be valid or enforceable
2 to the extent of that inconsistency.

3 (b) Except as provided in subdivision (d), no person
4 or entity, and no state or local agency, shall require any
5 person to provide his or her social security number for
6 any reason.

7 (c) Except as provided in subdivision (d), no person or
8 entity, and no state or local agency, shall use any person's
9 social security number for identification purposes.

10 (d) This section does not apply to any person or entity,
11 or to any state or local agency, that requires social security
12 numbers with respect to social security, tax, credit, or law
13 enforcement purposes, or that uses social security
14 numbers for identification purposes related to social
15 security, tax, credit, or law enforcement purposes. The
16 request or use of a social security number pursuant to this
17 subdivision shall be strictly limited to the purposes set
18 forth in this subdivision.

19 1798.81. No person shall, for commercial purposes,
20 acquire or distribute a person's social security number
21 without the written consent of that person.

22 ~~1798.82. The Director of Financial Institutions shall~~
23 ~~enforce the provisions of this title.~~

24 ~~SEC. 8. Section 4002 is added to the Financial Code,~~
25 ~~to read:~~

26 ~~4002. (a) The Director of Financial Institutions shall~~
27 ~~be responsible for enforcing all of the following provisions~~
28 ~~relative to credit grantors, consumer credit reporting~~
29 ~~agencies, identity theft, and confidentiality of social~~
30 ~~security numbers:~~

31 ~~(1) Title 1.6 (commencing with Section 1785.1) of Part~~
32 ~~4 of Division 3 of the Civil Code.~~

33 ~~(2) Title 1.6G (commencing with Section 1789.40) of~~
34 ~~Part 4 of Division 3 of the Civil Code.~~

35 ~~(3) Title 1.81 (commencing with Section 1798.80) of~~
36 ~~Part 4 of Division 3 of the Civil Code.~~



1 ~~(b) The director may impose civil penalties pursuant~~
2 ~~to regulation to enforce the provisions described in~~
3 ~~subdivision (a).~~

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