

AMENDED IN ASSEMBLY JUNE 28, 2000

AMENDED IN SENATE MAY 31, 2000

AMENDED IN SENATE MAY 25, 2000

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 Section 1785.15 of, to add Sections 1785.111 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, 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 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 or the subsidiaries and affiliates of those 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 would prohibit any person or entity, or state or local agency from ~~using~~ *assigning* any person's social security number ~~for identification purposes as account numbers or member numbers~~, except with respect to social security, tax, credit, or law enforcement purposes. *The bill would specify the dates on and after which this prohibition applies to new accounts or memberships created on or after July 1, 2001, and those created before that date. The bill would also specify that the prohibition shall become inoperative as to providers of health care, health care service plans, licensed health care professionals, or contractors, as defined, upon the effective date of a certain federal law.*

(3) 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.

(4) This bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: 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 may request a consumer credit
15 reporting agency to impose a freeze on release of any
16 information from the consumer's file. The freeze shall be
17 requested in writing, and shall be in effect until the
18 consumer requests the freeze to be lifted. The freeze does
19 not apply to persons or entities or the subsidiaries and
20 affiliates of those persons or entities that have a
21 preexisting business relationship with the consumer and
22 that request access to credit report information for the
23 purpose of reviewing the account, increasing the credit
24 line on the account, taking collection action on the
25 account, or for other legitimate purposes associated with
26 the existing account. A consumer credit reporting agency
27 shall follow reasonable procedures in implementing this
28 section in order to require proper identification, as
29 defined in subdivision (c) of Section 1785.15, of the person
30 making a request to impose or lift a freeze.

31 SEC. 3. Section 1785.15 of the Civil Code is amended
32 to read:



1 1785.15. (a) A consumer credit reporting agency
2 shall supply files and information required under Section
3 1785.10 during normal business hours and on reasonable
4 notice. In addition to the disclosure provided by this
5 chapter and any disclosures received by the consumer,
6 the consumer has the right to request and receive all of
7 the following:

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

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

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

23 (A) For employment purposes within the two-year
24 period preceding the request.

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

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

33 (b) Files maintained on a consumer shall be disclosed
34 promptly as follows:

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

39 (2) By mail, if the consumer makes a written request
40 with proper identification for a copy of the file or a



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

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

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

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

36 (d) The consumer credit reporting agency shall
37 provide trained personnel to explain to the consumer any
38 information furnished him or her pursuant to Section
39 1785.10.



1 (e) The consumer shall be permitted to be
2 accompanied by one other person of his or her choosing,
3 who shall furnish reasonable identification. A consumer
4 credit reporting agency may require the consumer to
5 furnish a written statement granting permission to the
6 consumer credit reporting agency to discuss the
7 consumer's file in that person's presence.

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

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

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

38 If you have notified a credit reporting agency in writing
39 that you dispute the accuracy of information in your file,
40 the consumer credit reporting agency must then, within



1 30 business days, reinvestigate and modify or remove
2 inaccurate information. The consumer credit reporting
3 agency may not charge a fee for this service. Any
4 pertinent information and copies of all documents you
5 have concerning an error should be given to the
6 consumer credit reporting agency.

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

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

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

31 You have a right to bring civil action against anyone
32 who improperly obtains access to a file or knowingly or
33 willfully misuses file data.”

34 SEC. 4. Title 1.6G (commencing with Section
35 1789.40) is added to Part 4 of Division 3 of the Civil Code,
36 to read:
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1 TITLE 1.6G. OBLIGATIONS OF CERTAIN CREDIT
2 GRANTORS

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Article 1. General Provisions

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

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Article 2. All Credit Grantors

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

21

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

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Article 3. Retail Seller Credit Grantors

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

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1789.48. If a credit grantor subject to this article
36 intends to extend credit by mail pursuant to a solicitation
37 by mail, the extension of credit shall be mailed to the same
38 address as on the solicitation unless the credit grantor
39 verifies any address change by, among other methods,



1 contacting the person to whom the extension of credit
2 will be mailed.

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

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6 TITLE 1.81. CONFIDENTIALITY OF SOCIAL
7 SECURITY NUMBERS

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9 1798.80. (a) No person or entity, and no state or local
10 agency, shall ~~use~~ *assign* Social Security numbers as
11 account numbers or member numbers, except with
12 respect to Social Security, tax, or law enforcement
13 purposes.

14 (b) *Subdivision (a) shall apply to all new accounts or*
15 *memberships created on or after July 1, 2001. Beginning*
16 *on January 1, 2003, subdivision (a) shall apply to all*
17 *accounts or memberships created before July 1, 2001. This*
18 *section shall not apply to closed accounts or*
19 *memberships.*

20 (c) *This section shall become inoperative with respect*
21 *to a provider of health care, a health care service plan, a*
22 *licensed health care professional, or a contractor, as those*
23 *terms are defined in Section 56.05 of the Civil Code, on*
24 *and after the date a federal law takes effect requiring the*
25 *United States Department of Health and Human Services*
26 *to establish a national unique patient health identifier*
27 *program.*

