New Law Provides Free Security Freezes and Increased Fraud Alert Protection

NATIONAL CENTER ON LAW & ELDER RIGHTS

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On May 24, 2018, the President signed Public Law 115-174 into law. Section 301 of Public Law 115-174 amends the Fair Credit Reporting Act, to establish a new federal right for consumers to implement a security freeze of their credit file.[1] The freezes are free of charge. The new legislation is effective September 21, 2018.

A security freeze is the single most effective tool to minimize the risk of identity theft. Identity thieves often target unsuspecting older adults, luring them into giving out personal information. The scammers then use this information to steal the older adults' identity and ruin a lifetime of positive credit.

As a general rule, security freezes allow a consumer to prohibit the release of their credit report. When a thief applies for credit in the victim's name, often the intended creditor will attempt to obtain the victim's credit report or score. The idea behind a security freeze is that, when the credit reporting agency returns no information or a notice that the consumer has frozen the file, the creditor will deny the thief's application, thereby thwarting the thief and protecting the consumer's credit reputation as well as the business interests of the creditor.

The legislation establishes standards for the creation, temporary lifting or "thaw," and permanent removal of security freezes from the nationwide consumer reporting agencies. The security freezes are essentially limited to parties seeking the consumer's information for credit purposes.

The freeze does not apply to parties who seek the report for employment, insurance, or tenant-screening purposes. It also does not apply to existing creditors or their agents or assignees conducting an account review, collecting on a financial obligation owed them, or seeking to extend a "firm offer of credit" (i.e., prescreening).

The legislation also preempts state security freeze laws and extends initial fraud alerts from 90 days to one year. A fraud alert notifies users that the consumer has been or may become a victim of fraud or identity theft. The legislation's preemption extends to any state requirement or prohibition with respect to subject matter regulated by the statute's provisions relating to security freezes. For example, some state statutes are stronger than the new federal standards by allowing consumers to freeze access to credit reports for employment or insurance purposes.

Finally, the legislation adds section 1681c-1(j), which establishes standards governing situations where a representative of a minor or incapacitated individual seeks to freeze the individual's consumer report.[2]

The new legislation should help older adults avoid identity theft. For more information on security freezes and state laws that are now preempted, see NCLC's Fair Credit Reporting § 9.4.4.1 and Appendix H.

1 The FCRA is codified at 15 U.S.C. §§ 1681 to 1681x.

2 An incapacitated person is one for whom a guardian or conservator has been appointed.

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