

New York Consolidated Laws Service
General Business Law
Article 25 – Fair Credit Reporting Act

§ 380-t. Security freeze

(a) A consumer may request that a security freeze be placed on his or her consumer credit report by sending a request in writing by certified mail or by overnight mail to a consumer credit reporting agency at an address designated by the consumer credit reporting agency to receive such requests.

(b) A consumer credit reporting agency that receives from a consumer a written request in accordance with subdivision (a) of this section shall, provided such written request is accompanied by proper identification and payment of any applicable fee, place a security freeze on the consumer credit report of or relating to such consumer no later than five business days after receiving such written request, provided, however, that for written requests received on or after January first, two thousand eight, such consumer credit reporting agency shall place a security freeze on the consumer credit report of or relating to such consumer no later than four business days after receiving such written request, provided further, however, that for written requests received on or after January first, two thousand nine, such consumer credit reporting agency shall place a security freeze on the consumer credit report of or relating to such consumer no later than three business days after receiving such written request. Nothing in this subdivision shall be construed to prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer credit report of or relating to such consumer.

(c) The consumer credit reporting agency shall send a written confirmation of the placement of a security freeze to the consumer within ten business days of placing such freeze. Upon placing the security freeze on the consumer credit report of or relating to such consumer, the consumer credit reporting agency shall provide the consumer with a unique personal identification number or password, or other device to be used by the consumer when providing authorization for the release of his or her consumer credit report for a specific party or specific period of time.

(d) If the consumer wishes to allow his or her consumer credit report to be accessed for a specific party or a specific period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency via certified mail, overnight mail, telephone or other method developed by such consumer credit reporting agency pursuant to subdivision (f) of this section using a point of contact designated by such consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

- (1) proper identification;
- (2) the unique personal identification number or password provided by the consumer credit reporting agency pursuant to subdivision (c) of this section;

(3) the proper information regarding the party to which the consumer credit report should be available or the time period for which the consumer credit report shall be available to users of such report; and

(4) payment of any applicable fee.

(e) A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a consumer credit report pursuant to subdivision (d) of this section, shall comply with the request no later than three business days after receiving such request.

(f) A consumer credit reporting agency may develop procedures involving other methods of communication, including the use of the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer credit report pursuant to subdivision (d) of this section in an expedited manner.

(g) The consumer protection board shall monitor the state of technology relating to the means available to process requests for the lifting or removal of a security freeze, and shall report to the legislature when it is determined that the technology to process requests for the lifting or removal of a security freeze in a shorter period of time than that set forth in subdivision (e) of this section is available.

(h) A consumer credit reporting agency shall remove or temporarily lift a freeze placed on the consumer credit report of or relating to a consumer only in the following cases:

(1) upon consumer request, pursuant to subdivision (d) or (k) of this section; or

(2) if the consumer credit report of or relating to such consumer was frozen due to a material misrepresentation of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze upon a consumer credit report pursuant to this paragraph, the consumer credit reporting agency shall notify the consumer in writing prior to removing the freeze on such consumer credit report.

(i) If a third party requests access to a consumer credit report on which a security freeze is in effect, and this request is in connection with an application for credit or any other use, and the consumer does not allow his or her consumer credit report to be accessed for that period of time, the third party may treat the application as incomplete.

(j) If a consumer requests a security freeze, the consumer credit reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from such consumer credit report for a specific party or a period of time while the freeze is in place.

(k) (1) A security freeze shall remain in place until the consumer requests, using a point of contact designated by the consumer credit reporting agency, that the security freeze be removed and provides the following:

(i) proper identification;

(ii) the unique personal identification number or password or similar device provided by the consumer credit reporting agency pursuant to subdivision (c) of this section; and

(iii) a fee, if applicable.

(2) A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer pursuant to paragraph one of this subdivision.

(l) A consumer credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(m) The provisions of this section do not apply to the use of a consumer credit report by any of the following:

(1) a person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;

(3) any state or local agency, law enforcement agency, court, private collection agency, or person acting pursuant to a court order, warrant, or subpoena;

(4) a child support agency acting pursuant to title iv-d of the social security act (42 U.S.C. et seq.);

(5) the state or its political subdivisions or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities provided such responsibilities are consistent with a permissible purpose under 15 U.S.C. section 1681b;

- (6) the use of credit information for the purposes of prescreening as provided for by the federal fair credit reporting act;
 - (7) any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed; or
 - (8) any person or entity for the purpose of providing a consumer with a copy of his or her consumer credit report or score upon the request of such consumer.
- (n) (1) No consumer credit reporting agency shall charge a fee to a victim of identity theft who has submitted a copy of a signed federal trade commission ID theft victim's affidavit, or a valid police report to such consumer credit reporting agency.
- (2) No consumer credit reporting agency shall charge a fee to a consumer requesting the placement of a security freeze when such consumer has not previously requested the placement of a security freeze from such consumer credit reporting agency. Except as provided for in paragraph one of this subdivision, a consumer credit reporting agency may charge a consumer a fee not to exceed five dollars for the placement of a second or subsequent freeze or for the removal of a freeze or the temporary lift of a freeze for a specific party or period of time or for the issuance of a replacement personal identification number or password when the consumer fails to retain the personal identification number or password provided to such consumer by such consumer credit reporting agency pursuant to subdivision (c) of this section.
- (o) If a security freeze is in place, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within thirty days of the change being posted to the file of or relating to such consumer: name, date of birth, social security number, and address. Written confirmation is not required for technical modifications of the official information of or relating to such consumer, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.
- (p) The following entities are not required to place a security freeze on a consumer credit report:
- (1) a consumer credit reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer credit reporting agency or multiple consumer credit reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced. However, a consumer credit reporting agency acting as a reseller shall honor any security freeze placed on a

consumer credit report by another consumer credit reporting agency;

(2) a check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or

(3) a deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding a consumer, to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

(q) (1) Any time a consumer credit reporting agency is required to send a summary of rights required under 15 U.S.C. section 1681g, to a consumer residing in this state the following notice shall be included with such summary of rights:

"NEW YORK CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE.

YOU HAVE A RIGHT TO PLACE A "SECURITY FREEZE" ON YOUR CREDIT REPORT, WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING AGENCY FROM RELEASING INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS AUTHORIZATION. A SECURITY FREEZE MUST BE REQUESTED IN WRITING BY CERTIFIED OR OVERNIGHT MAIL. THE SECURITY FREEZE IS DESIGNED TO PREVENT CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN YOUR NAME WITHOUT YOUR CONSENT. HOWEVER, YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO TAKE CONTROL OVER WHO GETS ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR CREDIT REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, GOVERNMENT SERVICES OR PAYMENTS, INSURANCE, RENTAL HOUSING, EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE. WHEN YOU PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT, YOU WILL BE PROVIDED A PERSONAL IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU CHOOSE TO REMOVE THE FREEZE ON YOUR CREDIT REPORT OR AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT TO A SPECIFIC PARTY OR FOR A PERIOD OF TIME AFTER THE FREEZE IS IN PLACE. TO PROVIDE THAT AUTHORIZATION YOU MUST CONTACT THE CONSUMER CREDIT REPORTING AGENCY AND PROVIDE ALL OF THE FOLLOWING:

- (1) THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD;**
- (2) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY;**

(3) THE PROPER INFORMATION REGARDING THE PARTY OR PARTIES WHO ARE TO RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE REPORT SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT; AND

(4) PAYMENT OF ANY APPLICABLE FEE.

A CONSUMER CREDIT REPORTING AGENCY MUST AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT NO LATER THAN THREE BUSINESS DAYS AFTER RECEIVING THE ABOVE INFORMATION.

A SECURITY FREEZE DOES NOT APPLY TO CIRCUMSTANCES IN WHICH YOU HAVE AN EXISTING ACCOUNT RELATIONSHIP AND A COPY OF YOUR REPORT IS REQUESTED BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL OR SIMILAR ACTIVITIES.

IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR APPLICATION FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A FREEZE, EITHER COMPLETELY IF YOU ARE SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN CREDITOR, BEFORE APPLYING FOR NEW CREDIT."

(2) If a consumer requests information about a security freeze, such consumer shall be provided with the notice set forth in paragraph one of this subdivision and with any other information necessary to place, temporarily lift or permanently lift a security freeze, including but not limited to the address, telephone number or point of contact at which the consumer credit reporting agency receives such requests.

(r) When a consumer credit reporting agency erroneously releases a consumer credit report subject to a security freeze or any information contained in such consumer credit report, the consumer credit reporting agency shall send written notification to the affected consumer within five business days following discovery or notification of such erroneous release. Such notification shall also inform the consumer of the nature of the information released and identify and provide contact information for the recipient of such information or consumer credit report.

(s) Whenever there shall be a violation of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct

restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than five thousand dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.