

## CHAPTER 13C

### ACCESS TO CONSUMER REPORTS

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#### 13C.001 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Consumer.** "Consumer" means an individual.

Subd. 3. **Consumer report.** (a) "Consumer report" means a written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for:

(1) the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes;

(2) employment purposes; or

(3) other purposes authorized under United States Code, title 15, section 1681b.

(b) Consumer report does not include:

(1) a report containing information solely as to transactions or experiences between the consumer and the person making the report;

(2) an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

(3) a report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys a decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under United States Code, title 15, section 1681m.

Subd. 4. **Consumer reporting agency.** "Consumer reporting agency" means a person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

Subd. 5. **Employment purposes.** "Employment purposes" means evaluating a consumer for hiring, compensation, promotion, reassignment, retention, or with respect to other terms and conditions of employment.

Subd. 6. **Investigative consumer report.** "Investigative consumer report" means a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends,

or associates of the consumer or with others with whom the consumer is acquainted or who may have knowledge concerning the information. "Investigative consumer report" does not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained directly from a creditor of the consumer or from the consumer.

**History:** 1993 c 292 s 1

### **13C.01 ACCESS TO CONSUMER REPORTS PREPARED BY CONSUMER REPORTING AGENCIES.**

Subdivision 1. **Fee for report.** (a) A consumer who is the subject of a consumer report maintained by a consumer reporting agency is entitled to request and receive by mail, for a charge not to exceed \$3, a copy of the consumer report once in any 12-month period. The mailing must contain a statement of the consumer's right to dispute and correct any errors and of the procedures set forth in the federal Fair Credit Reporting Act, United States Code, title 15, sections 1681 et seq., for that purpose. The consumer reporting agency shall respond to a request under this subdivision within 30 days.

(b) A consumer who exercises the right to dispute and correct errors is entitled, after doing so, to request and receive by mail, without charge, a copy of the consumer report in order to confirm that the consumer report was corrected.

(c) A consumer is entitled to a free copy of a consumer report if the consumer satisfies the procedures set forth in the federal Fair Credit Reporting Act, United States Code, title 15, sections 1681 et seq.

Subd. 2. [Repealed, 1993 c 292 s 6]

Subd. 3. **Sale of certain information prohibited.** A consumer reporting agency or any other business entity may not sell to, or exchange with, a third party, unless the third party holds an existing mortgage loan on the property, the existence of a credit inquiry arising from a consumer mortgage loan application when the sale or exchange is triggered by an inquiry made in response to an application for credit. This subdivision does not apply to information provided by a mortgage originator or servicer to a third party providing services in connection with the mortgage loan origination or servicing; a proposed or actual securitization; secondary market sale, including sales of servicing rights; or similar transaction related to the consumer mortgage loan.

**History:** 1992 c 569 s 5; 1993 c 292 s 2; 1999 c 244 s 1; 2007 c 105 s 1

### **13C.016 CONSUMER SECURITY FREEZE.**

Subdivision 1. **Definitions.** (a) For purposes of this section and sections 13C.017 to 13C.019, the terms defined in this section have the meanings given.

(b) "Security freeze" means a notice placed in a consumer's consumer report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer report or any information from it, in connection with the extension of credit or the opening of a new account, without the express authorization of the consumer. If a security freeze is in place, information from a consumer's consumer report may not be released to a third party, in connection with the extension of credit or the opening of an account, without prior express authorization from the consumer. This paragraph does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer report.

(c) "Victim of identity theft" means a consumer who has a copy of a valid police report evidencing that the consumer has alleged to be a victim of identity theft as defined in section 609.527.

Subd. 2. **Right to obtain security freeze.** A consumer may elect to place a security freeze on the consumer's consumer report by making a request to a consumer reporting agency. The consumer may make the request:

- (1) by certified mail;
- (2) by telephone by providing certain personal identification required by the consumer reporting agency; or
- (3) directly to the consumer reporting agency through a secure electronic mail connection if the connection is made available by the consumer reporting agency.

Subd. 3. **Response of consumer reporting agency.** (a) A consumer reporting agency shall place a security freeze on a consumer's consumer report no later than three business days after receiving a request under subdivision 2 from the consumer.

(b) The consumer reporting agency, within ten business days after receiving the request, shall send a written confirmation of the security freeze to the consumer and provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of the consumer's consumer report for a specific party or period of time.

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

Subd. 4. **Temporary lifting or permanent removal of freeze.** (a) If the consumer wishes to allow the consumer's consumer report to be accessed for a specific party or period of time while a freeze is in place, the consumer shall contact the consumer reporting agency, request that the freeze be temporarily lifted, and provide the following:

- (1) proper identification, which means that information generally deemed sufficient to identify a person. Only if the consumer is unable to sufficiently provide self-identifying information may a consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify the consumer's identity;
- (2) the unique personal identification number or password provided by the credit reporting agency under subdivision 3, paragraph (b); and
- (3) the proper information regarding the third party who is to receive the consumer report or the time period for which the report is to be available to users of the consumer report.

(b) A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on a consumer report under paragraph (a) shall comply with the request no later than three business days after receiving the request.

(c) A consumer reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer report under paragraph (a) in an expedited manner, with the goal of processing a request within 15 minutes after the request.

(d) A consumer reporting agency shall remove or temporarily lift a freeze placed on a consumer report only in the following cases:

(1) upon consumer request under paragraph (a) or (e); or

(2) when the consumer report was frozen due to a material misrepresentation of fact by the consumer. When a consumer reporting agency intends to remove a freeze on a consumer report under this clause, the consumer reporting agency shall notify the consumer in writing three business days prior to removing the freeze on the consumer report.

(e) A security freeze remains in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer, who provides both of the following:

(1) proper identification, as defined in paragraph (a), clause (1); and

(2) the unique personal identification number or password referenced in paragraph (a), clause (2).

**Subd. 5. Response by third party to denial of access.** When a third party requests access to a consumer report on which a security freeze is in effect, and this request is in connection with an application for credit or the opening of an account and the consumer does not allow the consumer's consumer report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

**Subd. 6. Nonapplicability.** This section does not apply to the use of a consumer 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 clause, "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 under subdivision 4 for purposes of facilitating the extension of credit or other permissible use;

(3) any federal, state, or local governmental entity, including but not limited to a law enforcement agency, court, or its agents or assigns;

(4) a private collection agency acting under a court order, warrant, or subpoena;

(5) any person or entity for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;

(6) any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed; and

(7) any person or entity for the purpose of providing a consumer with a copy of the consumer's consumer report upon the consumer's request.

**Subd. 7. Information to government agencies not affected.** This section does not prohibit

a consumer reporting agency from furnishing to a governmental agency a consumer's name, address, former address, places of employment, or former places of employment.

Subd. 8. **Fees.** (a) A consumer reporting agency may charge a fee of \$5 for placing, temporarily lifting, or removing a security freeze unless:

- (1) the consumer is a victim of identity theft as defined in subdivision 1, paragraph (c); and
- (2) the consumer provides the consumer reporting agency with a valid copy of a police report or a police case number documenting the identity theft.

(b) In addition to the charge, if any, permitted under paragraph (a), a consumer may be charged no more than \$5 if the consumer fails to retain the original personal identification number given to the consumer by the agency, but the consumer may not be charged for a onetime reissue of the same or a new personal identification number. The consumer may be charged no more than \$5 for subsequent instances of loss of the personal identification number.

(c) A consumer who makes a written request by mail may pay any fee charged pursuant to this subdivision by check, money order, or credit card. A consumer who makes a request by telephone or other electronic media may pay any fee charged pursuant to this subdivision by credit card.

**History:** 2006 c 233 s 2; 2008 c 211 s 1

### **13C.017 SECURITY FREEZE; CHANGES TO INFORMATION; WRITTEN CONFIRMATION REQUIRED.**

If a security freeze is in place, a consumer reporting agency may not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within 30 days of the change being posted to the consumer's file: name, date of birth, Social Security number, and address. Written confirmation is not required for technical modifications of a consumer's official information, 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.

**History:** 2006 c 233 s 3

### **13C.018 SECURITY FREEZE; NOT APPLICABLE TO CERTAIN CONSUMER REPORTING AGENCIES.**

A consumer reporting agency is not required to place a security freeze in a consumer report under section 13C.016 if it acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer reports are produced. However, a consumer reporting agency must honor any security freeze placed on a consumer report by another consumer reporting agency.

**History:** 2006 c 233 s 4

### **13C.019 SECURITY FREEZE; EXEMPT ENTITIES.**

The following entities are not required to place a security freeze on a consumer report under section 13C.016:

- (1) a check services or fraud prevention services company that 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; and

(2) a deposit account information service company that 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.

**History:** 2006 c 233 s 5

### **13C.02 DISCLOSURE OF USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.**

Subdivision 1. **Disclosure required.** A person may not obtain or cause to be prepared a consumer report on a consumer for employment purposes unless the person clearly and accurately discloses to the consumer that a consumer report may be obtained or caused to be prepared. The disclosure must inform the consumer of the right to request additional information on the nature of the report under subdivision 3. In the case of an investigative consumer report, the disclosure under this subdivision must inform the consumer that the report may include information obtained through personal interviews regarding the consumer's character, general reputation, personal characteristics, or mode of living.

Subd. 2. **Form; copy.** The disclosure required under subdivision 1 must be in writing and must be provided to the consumer before the consumer report is obtained or caused to be prepared. If a written application is provided for employment purposes by an employer or prospective employer, the disclosure must be included in or accompany the application. The disclosure must include a box that the person may check off and return to receive a copy of the consumer report. If the consumer requests a copy of the report, the person requesting the report shall request the person preparing the report to provide a copy to the consumer. The report must be sent to the consumer by the person preparing the report within 24 hours of providing it to the person requesting the report. The report to the consumer must include a statement of the consumer's right to dispute and correct any errors and of the procedures under United States Code, title 15, sections 1681 to 1681t. A consumer may not be charged for a report provided under this section. If no report exists, the consumer reporting agency has no obligation to the consumer under this section.

Subd. 3. **Further disclosure if requested.** A consumer reporting agency shall, upon written request from the consumer, make a complete and accurate disclosure of the nature and scope of the report. The disclosure under this subdivision must be in writing and must be mailed or delivered to the consumer within five days after the request for the disclosure was received or the consumer report was requested, whichever date is later.

Subd. 4. **Exception.** This section does not apply to:

(1) a consumer report to be used for employment purposes for which the consumer has not specifically applied; or

(2) a consumer report used for an investigation of a current violation of a criminal or civil statute by a current employee or an investigation of employee conduct for which the employer may be liable, until the investigation is completed.

**History:** 1993 c 292 s 3

### **13C.03 NOTICE OF ADVERSE ACTION.**

If employment is denied or other adverse action for employment purposes is taken against a consumer wholly or partly because of information contained in a consumer report, the user of the report shall so advise the consumer and notify the consumer of the consumer's right to receive

a copy of the report if a copy was not received pursuant to section 13C.02, subdivision 2. The user of the report shall also give the consumer the name and address of the consumer reporting agency making the report and a notice of the consumer's right to dispute and correct any errors and of the procedures under United States Code, title 15, sections 1681 to 1681t. Upon written request from the consumer, the consumer reporting agency shall provide a copy of the report to the consumer within five days of receipt of the request. A consumer may not be charged for a report provided under this section.

**History:** *1993 c 292 s 4*

#### **13C.04 ENFORCEMENT; REMEDIES.**

This chapter may be enforced by the attorney general or the county attorney pursuant to section 8.31 or 325F.70 and the public and private remedies available under those sections apply to this chapter.

**History:** *1993 c 292 s 5*