



Colorado
Legislative
Council
Staff

ISSUE BRIEF

Number 07-02

A Legislative Council Publication

February 13, 2007

IDENTITY THEFT

by Jeanette Chapman and Christie Lee

According to the Federal Trade Commission, in 2005 Colorado ranked fifth in the nation for the number of identity theft victims, with 97.2 victims per 100,000 population. Identity theft is generally defined as the unlawful use of personal identifying or financial information of another person to obtain cash or credit, including name and birth date as well as credit card and social security number. Using driver license, social security, bank account, and credit card numbers, identity thieves create new accounts or run up charges on existing accounts in the other person's name.

Over the 2005 and 2006 legislative sessions, the General Assembly addressed the issue of identity theft by passing laws to protect consumers before and after they become identity theft victims. The most notable of these safeguards is the Credit Report Security Freeze Act, which protects a particularly vulnerable source of personal and financial information — the credit report.

Credit Report Security Freeze Act

Beginning July 1, 2006, state law allows consumers to place a security freeze on their credit report. A security freeze prohibits a credit reporting agency from releasing a consumer's credit report, or any information contained in the report, without prior authorization from the consumer.

Under the law, consumers must be notified of the right to obtain a security freeze as part of their summary of rights under the federal Fair Credit

Reporting Act. If a reporting agency negligently violates the security freeze, the agency may be liable for damages up to \$1,000 for each violation, plus attorney fees and court costs.

Obtaining a security freeze. To place a security freeze on a credit report, a consumer must submit a written request, via certified mail, to any credit reporting agency. The act requires each credit reporting agency to honor a consumer's security freeze request to another credit reporting agency. The freeze must be placed on the report within five business days of receipt of the request and the agency must provide written confirmation within ten business days. The consumer must be provided with a unique personal identification number to use when authorizing release of information from the credit report or for later removal of the security freeze.

To temporarily lift a security freeze, consumers must provide proper identification, their personal identification number, and information about the third party who may have access to the report. The credit reporting agency must lift the freeze within three business days of receiving a request.

A credit reporting agency cannot charge for the initial placement of a security freeze. However, the agency may charge up to \$10 for temporary or permanent removal of the freeze. The agency may charge an additional \$10 fee to reinstate the security freeze. Agencies may charge a fee of up to \$12 if the freeze is temporarily lifted for a specific party.

Exemption from security freeze restrictions.

Certain entities are exempt from the security freeze restrictions, particularly those with which a consumer has an existing business or financial relationship. These exemptions are for: credit card companies when the consumer has an existing relationship; child support and law enforcement agencies; insurance companies when setting rates or underwriting a consumer's policy; hospitals to which the consumer has a financial obligation; collections investigators engaged in collecting court-ordered fees, fines, or restitution; and credit reporting agencies. State agencies acting to investigate fraud or collect delinquent taxes or unpaid court orders are also exempt from security freeze restrictions.

Credit reporting agencies. The three main credit reporting agencies are:

Equifax (www.equifax.com)
P.O. Box 74025, Atlanta, GA 30374
Report fraud: 800-525-6285
Order a credit report: 800-685-1111

Experian (www.experian.com)
P.O. Box 9532, Allen, TX 75013
Report fraud/order a credit report: 888-397-3742

Trans Union (www.tuc.com)
P.O. Box 6790, Fullerton, CA 92834
Report fraud: 800-680-7289
Order a credit report: 800-916-8800

Colorado consumers are entitled to one free credit report per year from each agency. A consumer may contact each agency directly for a report, or may obtain a combined report from all three through www.annualcreditreport.com or by calling 877-322-8228.

Identity Theft as a Crime

Prior to 2006, Colorado had no law making identity theft a crime. Instead, state law provided a variety of offenses for the unlawful possession, theft, or gathering of personal identifying information, or attempts to sell such information. These laws did not

specifically address the intent and activities of identity thieves — that is, using another's personal identifying information to fraudulently open new accounts.

In 2006, the General Assembly established the crime of identity theft and classified it as a class 4 felony, punishable by two to six years imprisonment or \$2,000 to \$500,000 in fines. A person commits identity theft if he or she possesses the personal or financial information of another with the intent to use it to obtain cash, credit, or something of value (Section 18-5-902, C.R.S.).

In addition, House Bill 06-1347 created the Identity Theft and Financial Fraud Board in the Department of Public Safety. The board will establish the investigative priorities of an identity theft and fraud deterrence task force also established by the bill. This task force, within the Colorado Bureau of Investigation, is directed to assist law enforcement agencies in investigating and prosecuting crimes related to identity theft.

Additional Consumer Protections

Beginning September 1, 2006, individuals and commercial entities are required to notify affected individuals any time that a security breach has exposed computerized personal information data. This data includes social security numbers, driver license numbers, credit or debit card numbers, and passwords. The law permits the Attorney General to file a lawsuit or press charges against a business that does not follow the required notification process.

Two other recently passed laws provide additional consumer protections. First, unauthorized buying or selling of a person's telephone information is prohibited and classified as a class 1 misdemeanor (Section 18-13-125, C.R.S.). Second, the public or printed display of a social security number and the required internet transmission of a social security number is prohibited (Section 6-1-715, C.R.S.). There are exceptions for the authorized use of a social security number by federal or state governments under certain conditions.