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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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TIGUE, WATERS AND WHEATLEY, MARCH 31, 2005

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REFERRED TO COMMITTEE ON COMMERCE, MARCH 31, 2005

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AN ACT

1 Providing for protection from identity theft, for security  
2 alerts and freezes, for procedures for access after  
3 imposition and removal of security freezes and for  
4 confidentiality of Social Security numbers.

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11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 CHAPTER 1  
14 PRELIMINARY PROVISIONS

15 Section 101. Short title.

16 This act shall be known and may be cited as the Consumer  
17 Protection and Credit Reporting Act.

18 Section 102. Definitions.

19 The following words and phrases when used in this act shall  
20 have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Clear and proper identification." Information generally  
23 deemed sufficient to identify a person. For purposes of this  
24 definition, only if a consumer is unable to reasonably identify  
25 himself with information under this definition may a consumer  
26 credit reporting agency require additional information  
27 concerning the consumer's employment and personal or family  
28 history in order to verify the consumer's identity.

29 "Consumer." A natural person who resides in this  
30 Commonwealth.

1 "Consumer file." A credit report.

2 "Consumer report." A credit report.

3 "Credit report." Any written, oral or other communication of  
4 any credit information by a credit reporting agency, as defined  
5 in the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. §  
6 1681 et seq.), which operates or maintains a database of  
7 consumer credit information bearing on a consumer's  
8 creditworthiness, credit standing or credit capacity.

9 "Credit reporting agency." Any person who, for monetary  
10 fees, dues or on a cooperative nonprofit basis, regularly  
11 engages in whole or in part in the practice of assembling or  
12 evaluating consumer credit information or other information on  
13 consumers for the purpose of furnishing consumer reports to  
14 third parties and who uses any means or facility of interstate  
15 commerce for the purpose of preparing or furnishing consumer  
16 reports. The term does not include:

17 (1) A check acceptance service which provides check  
18 approval and guarantees services to merchants.

19 (2) Any governmental agency whose records are maintained  
20 primarily for traffic safety, law enforcement or licensing  
21 purposes.

22 "Publicly post" or "publicly display." To intentionally  
23 communicate or otherwise make available to the general public.

24 "Security alert." A notice placed on a consumer file or in a  
25 consumer's report, at the request of the consumer, that is sent  
26 to a recipient of a consumer report or file involving that  
27 consumer file, signifying the fact that the consumer's identity  
28 may have been used without the consumer's consent to  
29 fraudulently obtain goods or services in the consumer's name.

30 "Security freeze." A notice placed on a consumer file, at

1 the request of the consumer and subject to certain exceptions,  
2 that prohibits a credit reporting agency from releasing the  
3 consumer's credit report or credit score without the express  
4 authorization of the consumer.

5 CHAPTER 3

6 SECURITY ALERTS AND FREEZES

7 Section 301. Security alert.

8 (a) General rule.--A consumer may elect to place a security  
9 alert in the credit report of the consumer by making a request  
10 in writing or by telephone and with clear and proper  
11 identification provided by the consumer to a consumer credit  
12 reporting agency.

13 (b) Disclosures to consumers.--A written disclosure to a  
14 consumer by a consumer reporting agency must include a written  
15 statement that explains in clear and simple language the  
16 consumer's rights under this section and includes:

17 (1) The process for receiving a consumer report or  
18 consumer file.

19 (2) The process for requesting or removing a security  
20 alert.

21 (3) The toll-free telephone number for requesting a  
22 security alert.

23 (4) Applicable fees.

24 (5) Dispute procedures.

25 (6) The process for correcting a consumer file or  
26 report.

27 (7) Information on a consumer's right to bring an action  
28 in court or arbitrate a dispute.

29 (c) Notification.--A consumer credit reporting agency shall  
30 notify each person requesting consumer credit information with

1 respect to a consumer of the existence of a security alert in  
2 the credit report of that consumer, regardless of whether a full  
3 credit report, credit score or summary report is requested.

4 (d) Toll-free telephone number.--Each consumer credit  
5 reporting agency shall maintain a toll-free telephone number to  
6 accept security alert requests from consumers 24 hours a day,  
7 seven days a week. The toll-free telephone number shall be  
8 included in any written disclosure by a consumer credit  
9 reporting agency to any consumer and shall be printed in a clear  
10 and conspicuous manner. In the event an automated answering  
11 system is utilized, calls shall be returned to the consumer no  
12 later than two hours after the time the call was received.

13 (e) Security alert request.--A consumer credit reporting  
14 agency shall place a security alert on a consumer's credit  
15 report no later than 24 hours after receiving a request from the  
16 consumer.

17 (f) Placement and renewal.--The security alert shall remain  
18 in place for at least one year, and a consumer shall have the  
19 right to request an unlimited number of renewals of the security  
20 alert. When a one-year alert has elapsed, on request in writing  
21 or by telephone and with proper identification provided by the  
22 consumer, the agency shall provide the consumer with a free copy  
23 of the consumer's file. A consumer may include with the security  
24 alert request a telephone number to be used by persons to verify  
25 the consumer's identity before entering into a transaction with  
26 the consumer.

27 (g) Approval.--Any person who uses a consumer credit report  
28 in connection with the approval of credit based on an  
29 application for an extension of credit, or with the purchase,  
30 lease or rental of goods or noncredit-related services and who

1 receives notification of a security alert pursuant to subsection  
2 (a) may not lend money, extend credit or complete the purchase,  
3 lease or rental of goods or noncredit-related services without  
4 taking reasonable steps to verify the consumer's identity, in  
5 order to ensure that the application for an extension of credit  
6 or for the purchase, lease or rental of goods or noncredit-  
7 related services is not the result of identity theft. If the  
8 consumer has placed a statement with the security alert in the  
9 consumer's file requesting that identity be verified by calling  
10 a specified telephone number, any person who receives that  
11 statement with the security alert in a consumer's file pursuant  
12 to subsection (a) shall take reasonable steps to verify the  
13 identity of the consumer by contacting the consumer using the  
14 specified telephone number prior to lending money, extending  
15 credit or completing the purchase, lease or rental of goods or  
16 noncredit-related services. If a person uses a consumer credit  
17 report to facilitate the extension of credit or for another  
18 permissible purpose on behalf of a subsidiary, affiliate, agent,  
19 assignee or prospective assignee, that person may verify a  
20 consumer's identity under this section in lieu of the  
21 subsidiary, affiliate, agent, assignee or prospective assignee.

22 (h) Extension of credit.--For purposes of this section,  
23 "extension of credit" does not include an increase in the dollar  
24 limit of an existing open-end credit plan, as defined in  
25 Regulation Z issued by the Board of Governors of the Federal  
26 Reserve System of 12 CFR 226.2 (relating to definitions and  
27 rules of construction), or any change to or review of an  
28 existing credit account.

29 (i) Verification of identity.--If reasonable steps are taken  
30 to verify the identity of the consumer, those steps constitute

1 compliance with the requirements of this section, except that if  
2 a consumer has placed a statement including a telephone number  
3 with the security alert in the consumer's file, the consumer's  
4 identity shall be verified by contacting the consumer using that  
5 telephone number as specified pursuant to subsection (g).

6 (j) Notice of expiration date.--A consumer credit reporting  
7 agency shall provide notification of the expiration date of a  
8 security alert to each consumer who has requested that a  
9 security alert be placed on the consumer's credit report.

10 Section 302. Security freeze.

11 (a) Request for freeze.--A consumer may elect to place a  
12 security freeze on the consumer's credit report by written  
13 request, sent by certified mail, that includes clear and proper  
14 identification, to a credit reporting agency. A credit reporting  
15 agency shall place a security freeze on a consumer's credit  
16 report no later than five business days after receiving a  
17 written request for the security freeze from the consumer.

18 (b) Disclosures to consumers.--Any written disclosure to a  
19 consumer by a credit reporting agency must include a written  
20 statement that explains in clear and simple language the  
21 consumer's rights under this section and includes:

22 (1) The process for receiving a credit report.

23 (2) The process for requesting or removing a security  
24 freeze.

25 (3) The toll-free telephone number for requesting a  
26 security alert.

27 (4) Applicable fees.

28 (5) Dispute procedures.

29 (6) The process for correcting a credit report.

30 (7) Information on a consumer's right to bring an action

1 in court or arbitrate a dispute.

2 (c) Effect of security freeze.--When a security freeze is in  
3 place, information from a consumer's credit report shall not be  
4 released to a third party without prior express authorization  
5 from the consumer. This subsection shall not prevent a credit  
6 reporting agency from advising a third party that a security  
7 freeze is in effect with respect to the consumer's credit  
8 report.

9 (d) Third-party request.--If a third party requests access  
10 to a consumer credit report on which a security freeze is in  
11 effect, and this request is in connection with an application  
12 for credit or any other use, and the consumer does not allow the  
13 consumer's credit report to be accessed for that specific party  
14 or period of time, the third party may treat the application as  
15 incomplete.

16 Section 303. Credit reporting agency.

17 The credit reporting agency shall, no later than ten business  
18 days after the date the agency receives the request for a  
19 security freeze, send the consumer a written confirmation that  
20 provides the consumer with a unique personal identification  
21 number or password to be used by the consumer when providing  
22 authorization for the access to the consumer's credit file for a  
23 specific period of time. In addition, the credit reporting  
24 agency shall simultaneously provide to the consumer in writing  
25 notification of the process of placing and temporarily lifting a  
26 security freeze and the process for allowing access to  
27 information from the consumer's credit file for a specific party  
28 or for a specific period while the security freeze is in effect.

29 Section 304. Personal identification.

30 A consumer may request in writing a replacement personal



1 identification number or password. The request must comply with  
2 the requirements for requesting a security freeze under section  
3 302 (relating to security freeze). The credit reporting agency  
4 shall, no later than seven business days after the date the  
5 agency receives the request for a replacement personal  
6 identification number or password, provide the consumer with a  
7 new, unique personal identification number or password to be  
8 used by the consumer instead of the number or password that was  
9 provided under section 303 (relating to credit reporting  
10 agency).

11 Section 305. Notification of freeze.

12 A credit reporting agency shall notify a person who requests  
13 a consumer report or score if a security alert or freeze is in  
14 effect for the consumer file involved in that report or score.

15 Section 306. Effect of freeze.

16 If a third party requests access to a consumer credit report  
17 on which a security freeze is in effect and this request is in  
18 connection with an application for credit or any other use and  
19 the consumer does not allow the consumer's credit report to be  
20 accessed for that specific period of time, the third party must  
21 treat the application as incomplete.

22 Section 307. Temporary freeze.

23 (a) Request.--If the consumer wishes to allow the consumer's  
24 credit report or score to be accessed for a specific period of  
25 time while a freeze is in place, the consumer shall contact the  
26 credit reporting agency and request that the freeze be  
27 temporarily lifted and provide the following:

28 (1) Clear and proper identification.

29 (2) The unique personal identification number or  
30 password provided by the credit reporting agency pursuant to

1 section 303 (relating to credit reporting agency).

2 (3) The proper information regarding the time period for  
3 which the report shall be available to users of the credit  
4 report.

5 (4) The proper information regarding the third party who  
6 is to receive the credit report or the time period for which  
7 the report shall be available to users of the credit report.

8 (b) Agency requirement.--A credit reporting agency that  
9 receives a request from a consumer to temporarily lift a freeze  
10 on a credit report pursuant to subsection (a) shall comply with  
11 the request no later than three business days after receiving  
12 the request. A credit reporting agency may develop procedures  
13 involving the use of the telephone, facsimile, Internet or other  
14 electronic media to receive and process a request from a  
15 consumer to temporarily lift a freeze on a credit report or  
16 score pursuant to subsection (a) in an expedited manner.

17 (c) Removal of temporary freeze.--A credit reporting agency  
18 shall remove or temporarily lift a freeze placed on a consumer's  
19 credit report only in the following cases:

20 (1) Upon consumer request as provided in this section.

21 (2) If the consumer's credit report was frozen due to a  
22 material misrepresentation of fact by the consumer. If a  
23 credit reporting agency intends to remove a freeze upon a  
24 consumer's credit report pursuant to this paragraph, the  
25 credit reporting agency shall notify the consumer in writing  
26 prior to removing the freeze on the consumer's credit report.

27 (d) Duration of freeze.--A security freeze shall remain in  
28 place until the consumer requests that the security freeze be  
29 removed. A credit reporting agency shall remove a security  
30 freeze within three business days of receiving a request for

1 removal from the consumer who provides both of the following:

2 (1) Clear and proper identification.

3 (2) The unique personal identification number or  
4 password provided by the credit reporting agency.

5 (e) Applicability of freeze.--A security freeze does not  
6 apply to a consumer report provided to:

7 (1) A Federal, State or local government entity,  
8 including a law enforcement agency or court, or their agents  
9 or assigns.

10 (2) A private collection agency for the sole purpose of  
11 assisting in the collection of an existing debt of the  
12 consumer who is the subject of the credit report requested.

13 (3) A person or entity or a subsidiary, affiliate or  
14 agent of that person or entity, or an assignee of a financial  
15 obligation owing by the consumer to that person or entity, or  
16 a prospective assignee of a financial obligation owing by the  
17 consumer to that person or entity in conjunction with the  
18 proposed purchase of the financial obligation, with which the  
19 consumer has or had prior to assignment an account or  
20 contract, including a demand deposit account, or to whom the  
21 consumer issued a negotiable instrument, for the purposes of  
22 reviewing the account or collecting the financial obligation  
23 owing for the account, contract or negotiable instrument. For  
24 purposes of this paragraph, "reviewing the account" includes  
25 activities related to account maintenance, monitoring, credit  
26 line increases and account upgrades and enhancements.

27 (4) A subsidiary, affiliate, agent, assignee or  
28 prospective assignee of a person to whom access has been  
29 granted under this section for the purposes of facilitating  
30 the extension of credit.

1           (5) A person, for the purposes of prescreening as  
2 provided by the Fair Credit Reporting Act (Public Law 91-508,  
3 15 U.S.C. § 1681 et seq.).

4           (6) A credit reporting agency for the purposes of  
5 providing a consumer with a copy of the consumer's report at  
6 the request of the consumer.

7           (7) A child support enforcement agency.

8           (8) A credit reporting agency that acts only as a  
9 reseller of credit information by assembling and merging  
10 information contained in the database of another credit  
11 reporting agency or multiple credit reporting agencies and  
12 does not maintain a permanent database of credit information  
13 from which new credit reports are produced. However, a credit  
14 reporting agency acting as a reseller shall honor any  
15 security freeze placed on a credit report by another credit  
16 reporting agency.

17           (9) A check services company or fraud prevention  
18 services company which issues reports on incidents of fraud  
19 or authorizations for the purpose of approving or processing  
20 negotiable instruments, electronic funds transfers or similar  
21 methods of payments.

22           (10) A deposit account information service company which  
23 issues reports regarding account closures due to fraud,  
24 substantial overdrafts, ATM abuse or similar negative  
25 information regarding a consumer to inquiring banks or other  
26 financial institutions for use only in reviewing a consumer's  
27 request for a deposit account at the inquiring bank or  
28 financial institution.

29           (f) Certain fees prohibited.--A consumer reporting agency  
30 may not charge a fee for a request under subsection (a) or (c).

1 Section 308. Fees.

2 (a) General rule.--A credit reporting agency shall not  
3 impose a fee for the first copy of a consumer report provided to  
4 a consumer each calendar year.

5 (b) Fee limited.--A credit reporting agency may impose a  
6 reasonable charge on a consumer for initially placing a security  
7 freeze on a consumer file. The amount of the charge may not  
8 exceed \$10. On January 1 of each year, a consumer reporting  
9 agency may increase the charge for disclosure to a consumer or  
10 for placing a security freeze. The increase, if any, must be  
11 based proportionally on changes to the Consumer Price Index for  
12 all Urban Consumers as determined by the United States  
13 Department of Labor with fractional changes rounded to the  
14 nearest 50¢. At no time shall the consumer be charged for  
15 revoking the freeze. An exception shall be allowed whereby the  
16 consumer will be charged \$0 by the consumer reporting agency  
17 placing the security freeze if any of the following apply:

18 (1) If the consumer is a victim of identity theft and,  
19 upon the request of the consumer reporting agency, provides  
20 the credit reporting agency with a police report.

21 (2) If the consumer is 62 years of age or older.

22 (c) Confirmation required.--If a security freeze is in  
23 place, a credit reporting agency shall not change any of the  
24 following official information in a consumer credit report  
25 without sending a written confirmation of the change to the  
26 consumer within 30 days of the change being posted to the  
27 consumer's file:

28 (1) Name.

29 (2) Date of birth.

30 (3) Social Security number.

1 (4) Address.

2 Written confirmation is not required for technical modifications  
3 of a consumer's official information, including name and street  
4 abbreviations, complete spellings or transposition of numbers or  
5 letters. In the case of an address change, the written  
6 confirmation shall be sent to both the new address and to the  
7 former address.

8 CHAPTER 5

9 PROCEDURES

10 Section 501. Distribution of information.

11 A consumer credit reporting agency, upon written request and  
12 the furnishing of sufficient identification to identify the  
13 consumer and the subject file, shall create reasonable  
14 procedures to prevent a consumer credit report or information  
15 from a consumer's file from being provided to any third party  
16 for marketing purposes or for any offer of credit not requested  
17 by the consumer. The section does not apply to the use of  
18 information by a credit grantor for purposes related to an  
19 existing credit relationship.

20 Section 502. Dispute procedure.

21 If the completeness or accuracy of information contained in a  
22 consumer's file is disputed by the consumer and the consumer  
23 notifies the consumer reporting agency of the dispute, the  
24 agency shall reinvestigate the disputed information free of  
25 charge and record the current status of the disputed information  
26 no later than the 30th business day after the date on which the  
27 agency receives the notice. The consumer reporting agency shall  
28 provide the consumer with the option of notifying the agency of  
29 a dispute concerning the consumer's file by speaking directly to  
30 a representative of the agency.

1 CHAPTER 7

2 CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

3 Section 701. Prohibitions.

4 (a) General rule.--A person or entity, not including a State  
5 or local agency, may not do any of the following:

6 (1) Publicly post or publicly display in any manner an  
7 individual's Social Security number.

8 (2) Print an individual's Social Security number on any  
9 card required for the individual to access products or  
10 services provided by the person or entity.

11 (3) Require an individual to transmit the individual's  
12 Social Security number over the Internet website unless the  
13 connection is secure or the Social Security number is  
14 encrypted.

15 (4) Require an individual to use the individual's Social  
16 Security number to access an Internet website unless a  
17 password or unique personal identification number or other  
18 authentication device is also required to access the Internet  
19 website.

20 (5) (i) Print an individual's Social Security number on  
21 any materials that are mailed to the individual unless  
22 Federal or State law requires the Social Security number  
23 to be on the document to be mailed.

24 (ii) Notwithstanding subparagraph (i), applications  
25 and forms sent by mail may include Social Security  
26 numbers.

27 (b) Applicability.--Except as provided in subsection (c),  
28 subsection (a) applies to the use of Social Security numbers on  
29 or after July 1, 2005.

30 (c) Use prior to effective date.--Except as provided in

1 subsection (e), a person or entity, not including a State or  
2 local entity, that has used, prior to July 1, 2005, an  
3 individual's Social Security number in a manner inconsistent  
4 with subsection (a) may continue using that individual's Social  
5 Security number in that manner on or after July 1, 2005, if all  
6 of the following conditions are met:

7 (1) The use of the Social Security number is continuous.  
8 If the use is discontinued for any reason, subsection (a)  
9 shall apply.

10 (2) The individual is provided an annual disclosure,  
11 commencing in the year 2005, informing the individual that  
12 the individual has the right to discontinue use of the  
13 individual's Social Security number in a manner prohibited by  
14 subsection (a).

15 (3) If a written request by an individual to discontinue  
16 the use of the individual's Social Security number in a  
17 manner prohibited by subsection (a) is received, the person  
18 or entity shall implement the request within 30 days of the  
19 receipt of the request. The person or entity may not impose a  
20 fee or charge for implementing the request.

21 (4) The person or entity, not including a State or local  
22 agency, does not deny services to the individual because the  
23 individual makes a written request pursuant to this  
24 subsection.

25 (d) Construction.--This section shall not be construed to  
26 prohibit the collection, use or release of a Social Security  
27 number as required by Federal or State law or the use of a  
28 Social Security number for internal verification or  
29 administrative purposes by a person or entity.

30 (e) Exceptions.--In the case of a health care service plan,



1 a provider of health care, an insurer or pharmacy benefits  
2 manager or an agent of any of these, this section shall become  
3 operative as follows:

4 (1) On or before January 1, 2006, a health care service  
5 plan, a provider of health care, an insurer or pharmacy  
6 benefits manager or an agent of any of these shall comply  
7 with subsection (a)(1), (3), (4) and (5) as these  
8 requirements pertain to existing individual policyholders.

9 (2) On or before January 1, 2006, a health care service  
10 plan, a provider of health care, an insurer or pharmacy  
11 benefits manager or an agent of any of these shall comply  
12 with subsection (a) as these requirements pertain to new  
13 individual policyholders and new employer groups for policies  
14 issued on or after January 1, 2006.

15 (f) Cooperation.--A health care service plan, a provider of  
16 health care, an insurer or pharmacy benefits manager or an agent  
17 of any of these entities shall make reasonable efforts to  
18 cooperate, through systems testing and other means, to ensure  
19 the requirements of this chapter are implemented on or before  
20 the dates specified in this chapter.

21 Section 702. Limitations of use of Social Security numbers by  
22 governmental entities.

23 Prior to posting or requiring the posting of a document in a  
24 place of general public circulation, an agency, board,  
25 department, commission, committee, branch, instrumentality or  
26 authority of the Commonwealth or an agency, board, committee,  
27 department, branch, instrumentality, commission or authority of  
28 any political subdivision of the Commonwealth shall take all  
29 reasonable steps to redact any Social Security numbers from the  
30 documents.

CHAPTER 11

MISCELLANEOUS PROVISIONS

Section 1101. Damages.

Any consumer damaged by an intentional, reckless or negligent violation of this act may bring an action for and shall be entitled to recovery of actual damages, plus reasonable attorney fees, court costs and other reasonable costs of prosecution of the suit.

Section 1102. Effective date.

This act shall take effect in 60 days.