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**MEMORANDUM**

June 14, 2006

To Our Clients and Friends

Re: State Security Freeze Laws

This memorandum summarizes state legislation which permits consumers to place a security freeze on their credit files.<sup>1</sup> A security freeze generally prohibits consumer reporting agencies (“CRAs”) from releasing a consumer’s credit report or credit score, subject to various exceptions. To date, 21 states have enacted legislation addressing security freezes.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.

**CALIFORNIA**

California law (Cal. Civ. Code § 1785.11.2 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer’s credit report or any information from it to a third party without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and a unique personal identification number (“PIN”) or password to the consumer to be used in requesting the freeze be lifted. The CRA also must inform the consumer of the process of for placing and temporarily lifting a security freeze. The act took effect January 1, 2003.

A consumer may permit access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the party or time period for which the report shall be available to users, as applicable. The CRA may permit contact by telephone, fax, the

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<sup>1</sup> The summaries generally discuss the significant provisions of the state laws.

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Internet, or other electronic means. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the Fair Credit Reporting Act (“FCRA”), or
- providing a consumer with a copy of his or her consumer report at the consumer’s request.

Certain entities are not required to place a security freeze on a consumer’s report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

When a summary of rights is required to be provided under California law when a CRA discloses the contents of the consumer’s file to the consumer at the consumer’s request, a notice regarding the availability of security freezes must be provided to California consumers.

A consumer may bring an action for a civil penalty, not to exceed \$2,500, as well as costs and attorneys’ fees against persons who knowingly and willfully obtain access to a file or data from a file other than as permitted by the law, or a person who uses data received from a file in a manner contrary to an agreement with all CRA.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.<sup>2</sup>

### **COLORADO**

Colorado law (Colo. Rev. Stat. § 12-14.3-106.6) provides that a consumer may place a security freeze prohibiting the release of the consumer’s credit report or information from it without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request and within 10 business days send written confirmation and a PIN or password to the consumer to be used in authorizing release of the consumer report. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act is effective July 1, 2006.

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<sup>2</sup> Fees may vary from jurisdiction to jurisdiction.

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A consumer may permit access to his or her consumer report by a specified party or for a period of time while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the party or time period for which the information shall be available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to place a freeze or temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing the account or collecting a financial obligation owing for an account, contract, debt or negotiable instrument, and costs,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report at the consumer's request, or
- setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), a notice regarding the availability of security freezes must be provided to Colorado consumers.

A CRA may charge a specified fee only to remove or temporarily lift a freeze or to place a subsequent freeze after a previous freeze has been removed.

### **CONNECTICUT**

Connecticut law (Conn. Gen. Stat. § 36a-701a) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail or an alternative

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secure method authorized by the CRA. The CRA must place the freeze within five business days and within 10 business days send written confirmation and a PIN or password to the consumer. The CRA also must inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect January 1, 2006.

A consumer may allow access to his or her credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with provide proper identification, the PIN or password, and information regarding the party or time period for which information shall be available to users, if applicable. The CRA may provide procedures for contacting the CRA to lift or remove the freeze, including at a minimum the ability to send a request via e-mail, letter or fax. The freeze must be lifted or removed within three business days of the request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt,
- prescreening under the FCRA, or
- a CRA providing a consumer with a copy of the report at the consumer's request.

Certain entities are exempt from the requirement to place a security freeze at a consumer's request (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

A CRA may charge a specified fee to place, remove, or temporarily lift a freeze.

### **ILLINOIS**

Illinois law (815 Ill. Comp. Stat. 505/2MM) provides that a victim of identity theft may place a security freeze prohibiting the release of the consumer's credit report or information from it without prior express authorization of the victim. A victim must send a written request by certified mail with a valid copy of a law enforcement report or complaint. The CRA must place the freeze within five business days of the request, and within 10 business days send written confirmation and provide the consumer with a unique PIN or password to be used in requesting the freeze be removed or lifted. The CRA also must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect January 1, 2006.

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An identity theft victim may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a victim must provide the CRA with proper identification, the PIN or password, and information regarding the party or time period for which information shall be available to users, if applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be lifted or removed within three business days of the victim's request.

Exceptions to a security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing the consumer with a copy of his or her consumer report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A person who violates the law is deemed to commit an unlawful practice under Illinois law.

A CRA may not charge a fee to place, remove, or temporarily lift a freeze.

### **KANSAS**

Kansas law (2005 Kan. S.B. 196) provides that a victim of identity theft may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit. To place a freeze, a victim must send a written request to a CRA by certified mail with a valid copy of a law enforcement report or complaint. The CRA must place the freeze within five business days of the request, and within 10 days send written confirmation and provide the consumer with a PIN or password for lifting the freeze. The CRA must inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The act is effective January 1, 2007.

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A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with clear and proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing a copy of the consumer's consumer report to the consumer at the consumer's request,
- acting as a reseller, providing check services, fraud prevention services or deposit account information services, or
- setting or adjusting insurance rates, adjusting claims or underwriting insurance.

Certain entities are not required to place a security freeze on a consumer's report, including financial institutions, check services or fraud prevention services, deposit account information services, CRAs acting as resellers, or databases of adverse information used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A person who willfully fails to comply with requirements of the law is liable to the affected consumer for actual damages or damages no less than \$100 and no more than \$1,000, punitive damages, costs and attorney's fees. A person who negligently fails to comply with the law is liable to the affected consumer for actual damages, costs and attorney's fees.

A CRA may not charge a fee to place, remove or temporarily lift a freeze.

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### **KENTUCKY**

Kentucky law (2006 KY HB 54) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score relating to the extension of credit without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail including clear and proper identification. The CRA must place the freeze and provide the consumer with a PIN or password for lifting the freeze within 10 business days of receiving the request. The CRA must also inform the consumer of the process for placing, removing and temporarily lifting a security freeze. The security freeze remains in place for seven years, unless removed by the consumer. The act is effective July 1, 2006.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide clear and proper identification, the PIN or password assigned to him and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA,
- providing a consumer with a copy of the consumer's own report,
- CRAs acting as a reseller,
- providing check services, fraud prevention services or deposit account information services, or
- setting or adjusting a rate or underwriting.

Certain entities are not required to place a security freeze on a consumer's report, including financial institutions and insurers, check services or fraud prevention services companies, deposit account information services, CRAs acting as resellers, or databases of adverse information used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address.

A person who willfully fails to comply with requirements of the law is liable to the affected consumer for actual damages or liquidated damages of no less than \$100

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and no more than \$1,000, punitive damages, costs and attorney's fees. A person who negligently fails to comply with the requirements is liable to the affected consumer for actual damages and costs and attorney's fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is an identity theft victim.

### **LOUISIANA**

Louisiana law (La. Rev. Stat. Ann. § 9:3571.1) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or credit score without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail including clear and proper identification. The CRA must place the freeze and provide the consumer with a PIN or password to be used in requesting the freeze be lifted within 10 business days of the request. The CRA must also provide notification of the process for placing, removing and temporarily lifting a security freeze. The act was effective July 1, 2005.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with clear and proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- reviewing an account or collecting an obligation owing for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- CRAs providing a consumer with a copy of the consumer's own report,
- CRAs acting as resellers, or
- providing check services, fraud prevention services or deposit account information services.

Certain entities are not required to place a security freeze, including banks, check services or fraud prevention services, deposit account information services, CRAs acting as resellers, or any database or file consisting of information adverse to the consumer used for permissible purposes under the FCRA.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth,

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SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A consumer may bring an action for actual damages, attorneys' fees and costs for intentional or negligent violations.

A CRA may charge a specified fee to place or temporarily lift a freeze. A CRA may not charge a fee to revoke a freeze and may not charge identity theft victims or a consumer who is 62 years of age or older.

### MAINE

Maine law (Me. Rev. Stat. tit. 10 § 1313-C) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act was effective February 1, 2006.

A consumer may permit access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the third parties or time period for which the report is to be available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report (check services or fraud prevention services, deposit account information services and CRAs acting as resellers).

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If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Affected consumers may bring actions for willful and knowing violations for actual damages and treble damages, as well as attorneys' fees and costs. A person who negligently violates the law is liable to the consumer for actual damages and additional damages as the court permits, but no less than \$100 per violation, attorneys' fees and costs. A person who knowingly and intentionally obtains information on a consumer from a CRA under false pretenses is subject to a fine of up to \$5,000 and imprisonment for up to one year. Violators may also be subject to administrative actions by the State Attorney General and civil penalties of up to \$5,000 for knowing violations.

A CRA may charge a specified fee to place, remove or lift a freeze, unless the consumer is an identity theft victim and provides a copy of a law enforcement report or complaint.

### **MINNESOTA**

Minnesota law (Minn. Stat. § 13C.016) provides that a consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it, in connection with the extension of credit or opening a new account, without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA via certified mail, by telephone providing certain personal identification specified by the CRA or directly to the CRA through a secure electronic mail connection if made available by the CRA. The CRA must place the freeze within three business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used to authorize lifting of the freeze. The CRA also must provide information regarding the process of placing and temporarily lifting a security freeze. The act is effective August 1, 2006.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password, and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means, with the goal of processing the request within 15 minutes of the request. Otherwise, the freeze must be lifted or removed within three business days of the request.

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Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- a CRA to provide a consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report, (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General or county attorney is authorized to enforce the law and seek injunctive relief or civil penalties of not more than \$25,000. A consumer may also bring a civil action to recover damages, costs and attorneys' fees and obtain equitable relief.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **NEVADA**

Nevada law (Nev. Rev. Stat. Ann. § 598C.300 et seq.) provides that a consumer may place a security freeze prohibiting the release of information from the consumer's credit file without express authorization of the consumer. To place the freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days and within 10 business days send written confirmation and provide the consumer with a PIN or password to be used for authorizing release of the report. The CRA must also provide information regarding the process of removing or temporarily lifting a security freeze and a written disclosure of rights. The act took effect October 1, 2005.

A consumer may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with sufficient identification, the PIN or password, and information regarding the third party or time period for making information

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available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to request temporarily lifting of the freeze. The freeze must be lifted or removed within three business days of the request and written confirmation sent that the security freeze has been removed.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- purposes relating to an existing business relationship,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's consumer report or credit score at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to bring actions to enforce this law. A person who willfully fails to comply with the law is liable to the affected consumer for actual damages, punitive damages and costs and attorneys' fees. A person who negligently fails to comply with the law is liable to the affected consumer for actual damages, costs and attorneys' fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **NEW HAMPSHIRE**

New Hampshire law (N.H. Rev. Stat. Ann. § 359-B:24) provides that a consumer may place a security freeze prohibiting the release of the consumer report or credit score without the consumer's express authorization. To place a freeze, a consumer who is a victim of identity theft must send a written request via certified mail to a CRA with a valid copy of a law enforcement report or complaint, in which case a fee may not be charged for placing the freeze. Other consumers who are not victims of identity theft may place a freeze by sending a written request to a CRA via certified mail, in which case a specified fee may be charged for each freeze, removal or temporary lifting of the freeze. Within five business days, the CRA must establish

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the freeze and within 10 business days, send written confirmation, a PIN or password to be used in authorizing lifting of the freeze, and information regarding the process of process for placing and temporarily lifting a security freeze. The act is effective January 1, 2007.

A consumer may allow access to his credit file by a specific party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. A CRA may develop procedures to process requests via telephone, fax, the Internet, or other electronic media to receive and process a request. The freeze must be lifted or removed within three business days of receiving the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA,
- providing a consumer with a copy of his or her consumer report or credit score upon the consumer's request, or
- setting or adjusting an insurance rate or claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to New Hampshire consumers.

A CRA or user of information who willfully fails to comply with the law is liable to affected consumers for actual damages or \$1,000, whichever is greater,

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punitive damages, costs and attorneys' fees. A CRA or user of information who negligently fails to comply with this law is liable to affected consumers for actual damages or \$1,000, whichever is greater, costs and attorneys' fees.

A CRA may charge a specified fee to place, remove, or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **NEW JERSEY**

New Jersey law (N.J. Stat. Ann. § 56:11-44 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer's consumer report to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail, overnight mail, or e-mail if provided by the CRA. Within five business days, the CRA must establish the freeze and send written confirmation, a PIN or password to be used in authorizing lifting of the freeze, information regarding the process of process for placing, removing and temporarily lifting a security freeze, and written disclosure of the right to place a freeze. The act was effective January 1, 2006.

A consumer may allow access to his credit file by a specific party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA via certified mail, overnight mail, or e-mail and provide identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. A CRA may develop procedures to process requests via telephone, fax, the Internet, or other electronic media. The freeze must be lifted or removed within three business days of receiving the request. Regulations are to be promulgated regarding use of electronic media to receive and process consumer requests to temporarily lift a freeze as quickly as possible, with the goal of processing a request within 15 minutes of receipt.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring service,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's consumer report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, demand deposit account information services, or CRAs acting as resellers).

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If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to New Jersey consumers.

A person who willfully fails to comply with requirements under the law is liable to the affected consumer for actual damages of not less than \$100 and not more than \$1000, or if a consumer report was obtained under false pretenses or knowingly without a permissible purpose, actual damages or \$1000, whichever is greater, as well as punitive damages and costs and attorneys' fees. A person who negligently fails to comply with this law is liable to the consumer for actual damages as well as costs and attorneys' fees.

A CRA may charge a specified fee to remove or temporarily lift a freeze, but not to place a freeze.

### **NEW YORK**

New York law (N.Y. Gen. Bus. L. § 380-t) provides that a consumer may place a security freeze on his or her consumer credit report prohibiting the release of the report, the contents of the report or the credit score without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified or overnight mail at the address designated by the CRA. Within five business days (after January 1, 2008, four business days; or after January 1, 2009, three business days) the CRA must place the freeze and within 10 business days must send written confirmation and provide the consumer with a PIN or password, or other device to be used in authorizing release of the consumer credit report. The CRA must inform the consumer of the process for placing, removing or temporarily lifting a security freeze, including the point of contact for doing so, and including a written disclosure of the consumer's rights. The act is effective November 1, 2006.

A consumer may allow access to his credit file to specific parties or for a specified period of time while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must contact the CRA via certified or overnight mail, telephone or other method developed by the CRA and provide proper identification, the PIN or password and information regarding the parties or time period for making information available to users, as applicable. The CRA may permit contact by other methods of communications, including the Internet or other electronic means to

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temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing the consumer with a copy of the consumer's report at his or her request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

Any time a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request) the law mandates that a specified notice regarding the availability of security freezes be provided to New York consumers.

The CRA must send written notice to a consumer within five business days if the CRA erroneously releases the consumer's report that is subject to a freeze, including the nature of the information released and the identity and contact information of the recipient.

The State Attorney General is authorized to seek an injunction against continued violations and the court may order a sum of no more than \$2,000 per defendant to be paid. A civil penalty also may be imposed of no more than \$5,000 per violation.

A CRA may charge a specified fee to remove or temporarily lift a freeze, or to place another freeze after removal of a previous freeze, unless the person is a victim of identity theft.

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### NORTH CAROLINA

North Carolina law (N.C. Gen. Stat. § 75-63) provides that any consumer may place a security freeze prohibiting the release of the consumer's credit report or any information from it to a third party without express authorization of the consumer. To place a freeze, a consumer must send a written request to a CRA by certified mail. Within five business days, the CRA must place the freeze and within 10 business days must send written confirmation and provide the consumer with a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act took effect December 1, 2005.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or to remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an active account or collecting a financial obligation owing for an account, contract or debt,
- prescreening under the FCRA,
- a CRA to provide the consumer with a copy of the consumer's report at his or her request,
- financial institutions for purposes related to checking, savings and investment accounts, or
- setting or adjusting a rate, adjusting a claim or underwriting for property and casualty insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

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When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to North Carolina consumers.

Violations of the law are considered violations of the State law prohibiting unfair or deceptive act or practices, for which actions may be brought by the State Attorney General for civil penalties of up to \$5,000 per violation or an injunction or other equitable relief. Actions may also be brought by injured consumers for treble damages and attorneys' fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft.

### **OKLAHOMA**

Oklahoma law (Okla. Stat. tit. 24, § 150 et seq.) provides that a consumer may place a security freeze prohibiting the release of the consumer report or credit score relating to the opening of new accounts or extension of credit. To place a freeze, the consumer must send a written request to a CRA by certified mail. The CRA shall place a security freeze within five business days of the request (or 10 business days if the freeze is requested prior to March 1, 2007 and the CRA is unable to process due to the volume of requests) and within 10 business days, the CRA shall send written confirmation and provide a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The act is effective January 1, 2007.

A consumer may allow access to his or her credit file for a specific period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,

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- providing the consumer with a copy of the consumer's report or credit score at his or her request, or
- underwriting of insurance.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (regarding disclosure by a CRA of the contents of the consumer's file to the consumer at the consumer's request), the law mandates that a specified notice regarding the availability of security freezes be provided to Oklahoma consumers.

A person who willfully or negligently fails to comply with this law is liable to an affected consumer for actual damages and costs and attorneys' fees.

A CRA may charge a specified fee to place, remove or temporarily lift a freeze, unless the consumer is a victim of identity theft. No fee may be charged to persons 65 years of age or older to place or remove a freeze.

### **SOUTH DAKOTA**

South Dakota law (2006 S.D. SB 180) (to be codified at ch. 246) provides that a consumer who is a victim of identify theft may place a security freeze prohibiting the release of information from the consumer's report, relating to an extension of credit involving the consumer's report, without express authorization of the consumer. To place a freeze, the victim must send a written request to a CRA by certified mail with a valid copy of a police report. The CRA must place the freeze within five business days of the request and within 10 business days send written confirmation and provide a PIN or password for use in lifting the freeze. The CRA must inform the consumer of the process for placing and temporarily lifting a security freeze. The freeze will remain in place for up to 7 years, unless the consumer opts to remove that freeze at an earlier date. The act is effective July 1, 2006.

An identity theft victim may allow access to his or her credit file for a specific period of time or to specific parties while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN or password and information regarding the time period for making information

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available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift the freeze. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owed for an account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing the consumer with a copy of the consumer's report at his or her request, or
- setting or adjusting a rate, adjusting a claim or underwriting for insurance purposes.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

### **TEXAS**

Texas law (Tex. Bus. & Com. Code § 20.034) permits a victim of identify theft to place a security freeze prohibiting the release of information from the victim's consumer report without express authorization of the victim. To place a freeze, a victim must send a written request to a CRA by certified mail with a valid copy of a law enforcement report or complaint. The CRA must place the freeze within five business days and within 10 business days provide the consumer with written confirmation and a PIN or password to be used in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect September 1, 2003

The victim may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA in writing or by telephone and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to third parties, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to process

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requests. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- purposes related to an existing account, contract or negotiable instrument,
- prescreening under the FCRA,
- providing a copy of the consumer's report to the consumer upon the consumer's request,
- for check services, fraud prevention services, or deposit account information services or
- a CRA acting as a reseller.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A consumer is permitted to bring an action for violations of the law. The State Attorney General also may seek injunctive relief or a civil penalty not to exceed \$2,000 per day the violations continue and attorneys' fees and costs. A violation of the law is considered a false, misleading or deceptive act or practice under Texas law.

A CRA may charge a specified fee for placing a freeze but may not charge a fee to remove or temporarily lift a freeze.

### **UTAH**

Utah law (Utah Code Ann. § 13.42-201) provides that a consumer may place a security freeze prohibiting release of the credit report or information from the report without express authorization of the consumer to a third party who intends to use it to determine the consumer's eligibility for credit. To place a freeze, a consumer must send a written request to a CRA by certified mail. The CRA must place the freeze within five business days of the request and within 10 business days, the CRA must send written confirmation and provide the consumer with a PIN or password to be used in lifting the freeze. The CRA must inform the consumer of the process for

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placing, removing and temporarily lifting a security freeze. The act will take effect September 1, 2008.

A consumer may allow access to his credit file for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must provide the CRA with proper identification, the PIN, password or other information sufficient to identify the consumer, and information regarding the time period for making information available to third parties. The CRA may permit contact by telephone, fax, the Internet, or other electronic means in addition to providing a postal address to place, remove or temporarily lift a freeze. If contact is made by telephone or an electronic means during regular business hours, a freeze must be removed with fifteen minutes. Otherwise, a freeze must be removed within three business days.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collect a financial obligation owed by the consumer,
- prescreening under the FCRA, or
- providing a copy of the consumer's report to the consumer upon the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers). The act states it is not intended to prohibit a person from obtaining, aggregating or using information lawfully obtained from public records.

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

The State Attorney General is authorized to enforce this law, and seek injunctive relief. A person violating the law is subject to a civil penalty of up to \$2,500 for a violation concerning a specific consumer and up to \$100,000 for related violations against more than one consumer.

A CRA may charge a reasonable fee to place, remove, or lift a freeze. A CRA may not charge a fee for placing or removing a freeze if the consumer is a victim of identity theft.

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### VERMONT

Vermont law (9 Vt. Stat. Ann. § 2480h et seq.) permits a victim of identify theft to place a security freeze prohibiting the victim's consumer report or information from it to be released without express authorization of the victim. To place the freeze, a victim must send a written request to a CRA by certified mail with a valid copy of a law enforcement report or complaint. The CRA must place the freeze within five business days and within 10 business days, the CRA must provide the consumer with written confirmation and a PIN or password to be used in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act was effective July 1, 2005.

The victim may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to process a request to temporarily lift a freeze. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A CRA may not charge a fee to place, remove, or temporarily lift a freeze for certain parties.

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### WASHINGTON

Washington law (Wash. Rev. Code § 19.182.170 et seq.) permits a victim of identity theft to place a security freeze prohibiting the release of the victim's consumer report or information from a consumer report without express authorization of the consumer. To place a freeze, the victim must send a written request to a CRA by certified mail with a valid copy of law enforcement report or complaint. The CRA must place the freeze within five business days and within 10 business days, the CRA must provide the consumer with written confirmation and a PIN or password for use in lifting the freeze. The CRA must notify the consumer of the process for placing, removing and temporarily lifting a security freeze. The act took effect July 24, 2005.

The victim may allow access to his credit file by a specified party or for a period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA and provide proper identification, the PIN or password and information regarding the third party or time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means to temporarily lift a freeze. The freeze must be lifted or removed within three business days of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- prescreening under the FCRA, or
- providing a consumer with a copy of the consumer's report at the consumer's request.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services, or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth, SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

A person who knowingly and willfully obtains information on a consumer from a CRA under false pretenses is subject to a fine of up to \$5,000 or imprisonment for up to one year, or both. An officer or employee of a CRA who knowingly and willfully provides information concerning an individual to an unauthorized person is subject to a fine of up to \$5,000 or imprisonment for up to one year, or both.

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A violation is considered an unfair or deceptive act in trade or commerce and an unfair method of competition under Washington law, for which a consumer may recover actual damages, costs and attorneys' fees. For willful violations, the consumer may be awarded actual damages, a monetary penalty of \$1,000, costs and attorneys' fees.

### WISCONSIN

Wisconsin law (Wis. Stat. Ann. § 100.54) provides that a consumer may place a security freeze prohibiting the release of the consumer's report for any purpose related to an extension of credit without express authorization of the consumer. To place the freeze, a consumer must send a written request by certified mail or other means authorized by the CRA. The CRA must place the freeze within five business days and within 10 business days, the CRA must provide the consumer with written confirmation and a PIN, password or other device for authorizing release of the consumer report. The CRA also must notify the consumer of the procedure to authorize release of the consumer report. The act will take effect January 1, 2007.

A consumer may allow access to his or her consumer report for a specified period of time while a freeze is in effect. To temporarily lift or remove the freeze, a consumer must contact the CRA at the point of contact designated by the CRA and provide proper identification, the PIN, password or other device, and information regarding the time period for making information available to users, as applicable. The CRA may permit contact by telephone, fax, the Internet, or other electronic means. The freeze must be lifted or removed within three business days of receipt of the request.

Exceptions to the security freeze also include reports provided for:

- credit file monitoring,
- preventing or investigating potential fraud or theft of identity,
- reviewing an account or collecting a financial obligation owing for an account, contract, or negotiable instrument,
- conducting a business transaction initiated by the individual,
- prescreening under the FCRA, or
- underwriting of insurance involving the individual.

Certain entities are not required to place a security freeze on a consumer's report (check services, fraud prevention services, deposit account information services or CRAs acting as resellers).

If a security freeze is in place, the CRA must send written confirmation to the consumer within 30 days of posting changes to the consumer's name, date of birth,

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SSN or address. The written confirmation must be sent to both the new and former addresses in the case of an address change.

When a summary of rights is required to be provided under section 609 of the FCRA (disclosure by a CRA of the contents of the consumer's file at the consumer's request) the law mandates that a specified notice regarding the availability of security freezes also be provided to Wisconsin consumers.

A person who fails to comply with the law is liable for actual damages sustained by an individual as well as costs and attorneys' fees.

A CRA may charge a specified fee to place, remove, or lift a freeze, unless the consumer is a victim of identity theft.

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