

Annotated Laws of Massachusetts
Part I – Administration of the Government
Title XV – Regulation of Trade
Chapter 93 – Regulation of Trade and Certain Enterprises

§ 50. Definitions.

As used in this section and sections fifty-one through sixty-seven, inclusive, the following words shall have the following meanings:

"Consumer", an individual.

"Consumer report", any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section fifty-one. The term does not include any report containing information solely as to transactions or experiences between the consumer and the person making the report, any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device, or any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section sixty-two.

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

"Employment purposes", when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

"File", when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"Firm offer of credit", any offer of credit to a consumer that will be honored if, based on information in a consumer report on the consumer and other information relative to the creditworthiness of the consumer, the consumer is determined to meet the criteria used to select the consumer for said offer.

"Identity theft report", a report that alleges a violation of *section 37E of chapter 266, 18 United States Code, section 1028*, or a similar statute in any other jurisdiction, or a copy of a report filed by a consumer with an appropriate federal, state or local law enforcement agency, and the filing of which subjects the person filing the report to criminal penalties pursuant to *section 67B of chapter 266* or *section 13A of chapter 269*.

"Investigative consumer report", a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

"Lift", to suspend a security freeze for the purpose of releasing a consumer's credit information to a specific party or for a specified period of time, as authorized by the consumer.

"Medical information", information or records obtained after the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

"Password" or "Personal identification number", a unique and random number or a unique and random combination of numbers, letters or symbols, which shall not contain a consumer's social security number or any sequence of 3 or more numbers of a consumer's social security number, or other personal identifying information.

"Person", means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

"Prescreening", a process whereby a consumer reporting agency compiles or edits for a client a list of consumers who meet specific criteria and provides such list to the client or third party on behalf of the client for the purpose of making a firm offer of credit.

"Proper identification", information sufficient to identify a person, which shall include, but not be limited to, name, address, social security number and date of birth. Such information shall not include information concerning the consumer's employment and personal or family history unless the consumer is unable to reasonably identify himself with the information described in the preceding sentence.

"Remove", to permanently terminate a security freeze.

"Security freeze", a notice placed on a person's consumer report by a consumer reporting agency, at the request of the consumer and subject to certain exceptions, which prohibits the consumer reporting agency from releasing the report or any information derived therefrom without the express authorization of the consumer.

"User", any person seeking or obtaining a consumer report for purposes authorized in section fifty-one.

§ 56. Disclosures to Consumer on Request; Information to Be Disclosed; Notice of Consumer's Rights.

(a) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

(1) the nature, contents and substance of all information, except medical information, in its file on the consumer at the time of the request, and which is obtainable based upon the identifying information supplied by the consumer when making such request, and if such consumer has made a written request, deliver a written copy or photocopy of all such information except any code identifications which are used solely for purposes of transferring such information to and from consumer reporting agencies; provided, however, that the names of the users corresponding to the code identifications shall be disclosed to the consumer; provided, further, that the agency shall provide a clear, simple and plain meaning explanation of the information provided under this paragraph and such explanation shall be in a readable format and type, which shall in no case be smaller than ten point type;

(2) the sources of all credit information obtained through routine credit reporting or through any other credit reporting techniques in the file at the time of the request, except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed; provided, however, that in the event an action is brought pursuant to section sixty-five,

such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought; and

(3) the recipients of any consumer report on the consumer which it has furnished for employment purposes within the two year period preceding the request, and for any other purpose within the six-month period preceding the request.

(b) Every consumer reporting agency, upon contact by a consumer by phone, mail, or in person regarding information which may be contained in the agency files regarding that consumer, shall with each written disclosure, or in response to a request by the consumer to be advised as to his rights, promptly advise the consumer of the consumer's rights under this section. The written notice shall be in a clear and conspicuous format and be no smaller than ten point type. The notice shall inform the consumer of the consumer's rights under this chapter, provided in a clear and conspicuous manner, in substantially the following manner:

"You have a right to obtain a copy of your credit file from a consumer credit reporting agency. You may be charged a reasonable fee not exceeding eight dollars. There is no fee, however, if you have been turned down for credit, employment, insurance, or rental dwelling because of information in your credit report within the preceding sixty days. The consumer credit reporting agency must provide someone to help you interpret the information in your credit file. Each calendar year you are entitled to receive, upon request, one free consumer credit report.

You have a right to dispute inaccurate information by contacting the consumer reporting agency directly, either in writing or by telephone. The consumer reporting agency shall provide, upon request and without unreasonable delay, a live representative of the consumer reporting agency to assist in dispute resolution whenever possible and practicable, or to the extent consistent with federal law. However, neither you nor any credit repair company or credit service organization has the right to have accurate, current, and verifiable information removed from your credit report. In most cases, under state and federal law, the consumer credit reporting agency must remove accurate, negative information from your report only if it is over seven years old, and must remove bankruptcy information only if it is over ten years old.

If you have notified a consumer credit reporting agency in writing that you dispute the accuracy of information in your file, the consumer credit reporting agency must then, within thirty business days, reinvestigate and modify or remove inaccurate information. The consumer credit reporting agency may not charge a fee for this service. Any pertinent information and copies of all documents you have concerning a dispute should be given to the consumer credit reporting agency.

If reinvestigation does not resolve the dispute to your satisfaction, you may send a statement to the consumer credit reporting agency to keep in your file, explaining why you think the record is inaccurate. The consumer credit reporting agency must include your statement about the disputed information in a report it issues about you.

You have a right to receive a record of all inquiries relating to a credit transaction initiated in the six months preceding your request, or two years in the case of a credit report used for employment purposes. This record shall include the recipients of any consumer credit report.

You have the right to opt out of any prescreening lists compiled by or with the assistance of a consumer credit reporting agency by calling the agency's toll-free telephone number or contacting the agency in writing. You may be entitled to collect compensation, in certain circumstances, if you are damaged by a person's negligent or intentional failure to comply with the credit reporting act.

You have a right to request a "security freeze" on your consumer report. The security freeze will prohibit a consumer reporting agency from releasing any information in your consumer report without your express authorization. A security freeze shall be requested by sending a request either by certified mail, overnight mail or regular stamped mail to a consumer reporting agency, or as authorized by regulation. The security freeze is designed to prevent credit, loans or services from being approved in your name without your

consent. You should be aware that using a security freeze may delay, interfere with, or prevent the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, internet credit card transactions, or other services, including an extension of credit at point of sale.

When you place a security freeze on your consumer report, within 5 business days of receiving your request for a security freeze, the consumer reporting agency shall provide you with a personal identification number or password to use if you choose to remove the freeze on your consumer report or to authorize the release of your consumer report to a specific party or for a specified period of time after the freeze is in place. To provide that authorization, you must contact the consumer reporting agency and provide the following:-

- (1) the personal identification number or password provided by the consumer reporting agency;
- (2) proper identification to verify your identity; and
- (3) the third party or parties who are to receive the consumer report or the specified period of time for which the report shall be available to authorized users of the consumer report.

A consumer reporting agency that receives a request from a consumer to lift a freeze on a consumer report shall comply with the request not later than 3 business days after receiving the request.

A security freeze shall not apply to a person or entity, or to its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information relative to your consumer report for the purposes of reviewing or collecting the account, if you have previously given consent to the use of your consumer report. "Reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

§ 62A. Consumer Reports -- Security Freeze.

If a consumer requests a security freeze, the consumer reporting agency shall disclose to the consumer the process of placing, removing and lifting a security freeze. A consumer reporting agency shall require proper identification of the person making a request to place, lift or remove a security freeze.

A consumer may request that a security freeze be placed on his consumer report by sending a request to a consumer reporting agency by certified mail, overnight mail or regular stamped mail to an address designated by the consumer reporting agency to receive such requests, or by a method otherwise permitted by regulation. If a security freeze is in place, the information from a consumer report shall not be released to a third party without prior express authorization from the consumer. This section shall not prohibit a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer report.

A consumer reporting agency shall place a security freeze on a consumer report not later than 3 business days after receiving a request from the consumer. The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within 5 business days after receiving the request and shall provide the consumer with a unique personal identification number or a unique password, or both, to be used by the consumer for the purpose of providing authorization for the removal or lifting of the security freeze.

If the consumer wishes to lift a security freeze that is in place, he shall contact the consumer reporting agency, request that the freeze be lifted, and provide proper identification, the personal identification number or password, or both, provided by the consumer reporting agency, and the third party who is to receive the consumer report or the specified period of time for which the report shall be available to authorized users of the consumer report.

A consumer reporting agency that receives a request from a consumer to lift a security freeze on a consumer report pursuant to this chapter shall comply with the request as soon as practicable and without unreasonable delay, but under no circumstances not later than 3 business days after receiving the request.

A security freeze shall remain in place until the consumer requests that the security freeze be lifted or removed in accordance with this section; provided, however, that a consumer reporting agency may remove a security freeze if the consumer report was frozen due to a material misrepresentation of fact. If a consumer reporting agency intends to remove a freeze on a consumer report due to a material misrepresentation of fact by the consumer, the consumer reporting agency shall notify the consumer in writing 5 business days prior to removing the freeze on the consumer report.

While a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within 30 days of the change being posted to the consumer report: name, date of birth, social security number, and address. Written confirmation shall not be required for technical modifications of information contained in a consumer report, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

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

A consumer reporting agency shall remove a security freeze within 3 business days of receiving a request for removal from a consumer who provides both proper identification and the personal identification number or password provided by the consumer reporting agency pursuant to this section.

This section shall not apply to the use of a consumer report by any of the following:--

(a) a person or agent thereof, or an assignee of a financial obligation owing by the consumer to such person or agent thereof, or a prospective assignee of a financial obligation owing by the consumer to that person or agent thereof in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had, prior to assignment, an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract or negotiable instrument. For purposes of this paragraph, "reviewing the account" shall include activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements; or access to said account by a subsidiary, affiliate, agent, assignee or prospective assignee of a person, or agent thereof, to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;

(b) any federal, state or local agency, law enforcement agency, or trial court acting pursuant to a court order, warrant or subpoena;

(c) the Massachusetts child support agency under Title IV-D of the Social Security Act, 42 U.S.C. et seq;

(d) the executive office of health and human services or its agents or assigns acting to investigate Medicaid fraud;

(e) the department of revenue or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;

(f) a person using credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;

(g) any person administering a credit file monitoring subscription service to which the consumer has subscribed;

(h) any person acting solely for the purpose of providing a consumer with a copy of his consumer report upon the consumer's request; or

(i) to the extent otherwise allowed by statute, any property and casualty insurer licensed by the commonwealth for use in rating or underwriting insurance policies.

Nothing in this chapter shall prevent a consumer reporting agency from charging a reasonable fee, not to exceed \$5, to a consumer who elects to freeze, lift or remove a freeze to a consumer report, except that a consumer reporting agency shall not charge a fee to a victim of identity theft or his spouse, provided that the victim has submitted a valid police report relating to the identity theft to the consumer reporting agency.

The following persons shall not be required to place a security freeze on a consumer report:--

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

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

(c) a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer reports are produced, except that such financial institution or consumer reporting agency shall be subject to any security freeze placed on a consumer report by another consumer reporting agency from which it obtains information.

Notwithstanding any general or special law to the contrary, the director of consumer affairs and business regulation, in consultation with the secretary of housing and economic development, shall promulgate rules and regulations for the purpose of expediting the methods of requesting, lifting and removing security freezes through technological advancements, consistent with this section and designed to benefit consumers.