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SENATE BILL 701

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO CONSUMER PROTECTION; ALLOWING CONSUMERS TO PUT SECURITY ALERTS OR FREEZES ON THEIR CREDIT REPORTS OR HAVE INFORMATION IN CREDIT REPORTS BLOCKED IF THEIR IDENTITY MAY HAVE BEEN USED WITHOUT THEIR CONSENT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 56-3-1 NMSA 1978 (being Laws 1969, Chapter 259, Section 1, as amended) is amended to read:

"56-3-1. DEFINITIONS.--As used in [~~this act~~] Chapter 56, Article 3 NMSA 1978:

A. "credit bureau" means any business engaged in furnishing credit information about consumers; [~~and~~]

B. "consumer" means any natural person in the general consuming public who seeks or is seeking credit for

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1 personal, family or household purposes; and

2 C. "identity theft" means willfully obtaining,  
3 recording or transferring personal or financial information of  
4 another person without that person's authorization or consent  
5 and with the intent to defraud that person or a third person."

6 Section 2. A new section of Chapter 56, Article 3 NMSA  
7 1978 is enacted to read:

8 "[NEW MATERIAL] SECURITY ALERT.--

9 A. A consumer may request that a credit bureau  
10 place a "security alert" in the consumer's credit report that  
11 will warn anyone receiving information in the report that the  
12 consumer's identity may have been used without the consumer's  
13 consent.

14 B. A request for a security alert may be made by  
15 mail, telephone or in person.

16 C. A security alert shall be maintained for ninety  
17 days, at which time the consumer is entitled to a free copy of  
18 the consumer's credit report.

19 D. A recipient of a credit report containing a  
20 security alert shall take reasonable steps, including  
21 contacting the consumer at a telephone number the consumer may  
22 have provided to the credit bureau for the security alert, to  
23 verify the consumer's identity prior to lending money,  
24 extending credit or completing the purchase, lease or rental of  
25 goods or services.

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1           E. Upon receiving a consumer's request for a  
2 security alert, a credit bureau shall provide notice to the  
3 consumer that the security alert may prevent credit, loans and  
4 services from being approved in the consumer's name without the  
5 consumer's consent, but that the security alert may also delay  
6 or interfere with the timely approval of any subsequent request  
7 or application the consumer makes regarding a new loan, credit,  
8 a mortgage, insurance, rental housing, employment, an  
9 investment, a license, a cellular phone, utilities, a digital  
10 signature, an internet credit card transaction, extension of  
11 credit at a point of sale or another service."

12           Section 3. A new section of Chapter 56, Article 3 NMSA  
13 1978 is enacted to read:

14           "[NEW MATERIAL] SECURITY FREEZE.--

15           A. A consumer may request that a credit bureau  
16 place a "security freeze" on the consumer's credit report that  
17 will prohibit a credit bureau from releasing information in the  
18 consumer's credit report without the consumer's express  
19 authorization.

20           B. A request for a security freeze shall be made in  
21 writing by certified mail.

22           C. When a security freeze is placed on a consumer's  
23 credit report, the credit bureau shall provide the consumer  
24 with a personal identification number or password to use if the  
25 consumer chooses to remove the freeze or to authorize the

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1 release of the credit report to a specific person or for a  
2 specific period of time after the freeze is in place. To  
3 provide authorization to release the report the consumer must  
4 contact the credit bureau and provide the personal  
5 identification number or password, verification of the  
6 consumer's identity and information regarding the person who is  
7 to receive the credit report or the period of time for which  
8 the credit report can be released. A credit bureau shall  
9 authorize the release of the consumer's credit report within  
10 three business days of receiving the authorizing information.

11 D. Upon receiving a consumer's request for a  
12 security freeze, a credit bureau shall provide notice to the  
13 consumer that using a security freeze to control who gets  
14 access to the personal and financial information in a credit  
15 report may also delay, interfere with or prohibit the timely  
16 approval of any subsequent request or application the consumer  
17 makes regarding a new loan, credit, a mortgage, insurance,  
18 rental housing, employment, an investment, a license, a  
19 cellular phone, utilities, a digital signature, an internet  
20 credit card transaction, extension of credit at a point of sale  
21 or another service."

22 Section 4. A new section of Chapter 56, Article 3 NMSA  
23 1978 is enacted to read:

24 "[NEW MATERIAL] BLOCKING FRAUDULENT INFORMATION.--If a  
25 consumer alleges identity theft and provides to a credit bureau

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1 a copy of a valid police report describing the identity theft  
2 circumstances, the following shall apply:

3 A. information the consumer lists as allegedly the  
4 result of identity theft shall be promptly blocked by the  
5 credit bureau so that it cannot be contained in a credit  
6 report. That information shall be unblocked only if:

7 (1) the information provided by the consumer  
8 is a material misrepresentation of the facts;

9 (2) the consumer agrees that the information  
10 is blocked in error; or

11 (3) the consumer knowingly received goods,  
12 services or money as a result of blocked information;

13 B. if blocked information is unblocked pursuant to  
14 Subsection A of this section, the consumer shall be promptly  
15 notified by the credit bureau; and

16 C. the consumer shall have a right to receive from  
17 the credit bureau, free of charge and upon request, a copy of  
18 the consumer's credit report each month for up to twelve  
19 consecutive months."