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NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 45F
IDENTITY THEFT

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SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

13:45F-1.1 PURPOSE

This chapter is promulgated by the Director under the Identity Theft Prevention Act (the ITPA), N.J.S.A. 56:11-44 et seq. The rules address the obligations of a consumer reporting agency to New Jersey consumers regarding placing, lifting or removing a security freeze on a consumer report under the ITPA at N.J.S.A. 56:11-46 et seq. Further, the rules address prohibited uses of Social Security numbers and the manner in which Social Security numbers may be given in a public setting under the ITPA at N.J.S.A. 56:8-164. Finally, the rules address the penalties for violations of the security freeze and breach of security provisions under the ITPA at N.J.S.A. 56:8-166 and 56:11-50.

13:45F-1.2 SCOPE

This chapter applies to consumer reporting agencies that maintain consumer reports on New Jersey residents and any public or private entity or person who has access to the Social Security numbers of New Jersey residents.

13:45F-1.3 DEFINITIONS

For the purposes of this chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Communicate” means to send a written or other tangible record or to transmit a record by any means agreed upon by the persons sending and receiving the record.

“Consumer” means an individual.

“Consumer report” means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living that 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;

2. Employment purposes; or
3. Any other purpose authorized under the New Jersey Fair Credit Reporting Act, P.L. 1997, c. 172 §4.

The term “consumer report” does not include:

- 1) Any report containing information solely on transactions or experiences between the consumer and the person making the report, communication of that information among persons related by common ownership or affiliated by corporate control, or communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among those persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that the information not be communicated among those persons;
- 2) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;
- 3) 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 or her decision with respect to that request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under 15 U.S.C. § 1681m, incorporated herein by reference as may be amended and supplemented; or
- 4) Communication excluded from the definition of consumer report pursuant to subsection (o) of section 603 of the Fair Credit Reporting Act, 15 U.S.C. §1681a, incorporated herein by reference, as may be amended and supplemented.

“Consumer reporting agency” means all consumer reporting agencies that compile or maintain files on consumers on a nationwide basis, as defined by subsection (p) of section 603 of the Fair Credit Reporting Act, 15 U.S.C. §1681a, incorporated herein by reference, as may be amended and supplemented.

“Director” means the Director of the Division of Consumer Affairs within the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs within the Department of Law and Public Safety.

“Individual” means a natural person.

“Internet” means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

“Official information” means individual’s name, address, date of birth or Social Security number.

“Person” means a natural person, partnership, corporation, company, trust, firm, business entity or association.

“Plain language” means language presented in a simple, clear, understandable and easily readable manner.

“Private entity” means an individual, corporation, company, partnership, firm, association, or other entity, other than a public entity.

“Public entity” means the State, any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State. For purposes of this chapter, public entity does not include the Federal government.

“Publicly post” or “publicly display” means to intentionally communicate or otherwise make available to the general public.

“Security freeze” means a notice placed in a consumer’s consumer report, at the request of the consumer that, subject to certain exceptions as set forth in N.J.S.A. 56:11-46(1), prohibits the consumer reporting agency from releasing the report or any information from it without the express authorization of the consumer, but does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer report.

SUBCHAPTER 2. SECURITY FREEZE PROVISIONS

13:45F-2.1 PROVIDING INFORMATION TO CONSUMERS ABOUT A SECURITY FREEZE

- a) Each consumer reporting agency shall provide to consumers:
- 1) Complete, easily accessible information presented in plain language about how to place, lift and remove a security freeze on a consumer report including:
 - i) All identifying information that the consumer reporting agency requires from a consumer to place, temporarily lift or remove a security freeze on a consumer report;
 - ii) The methods by which a consumer can make a request to the consumer reporting agency to place, temporarily lift or remove a security freeze on a consumer report, which may be a written request by certified or overnight mail or secure electronic mail, or, where the freeze is being temporarily lifted or removed, by secure electronic media;
 - iii) A notice that a consumer must place a security freeze with each consumer reporting agency separately;
 - iv) The amount of any fee to temporarily lift or remove a security freeze and the methods of payment accepted by the consumer reporting agency; and
 - v) Information on the procedures to replace a lost personal identification number (PIN) or password; and
 - 2) A toll-free telephone number that, if automated, includes a separate prompt on the menu for information about placing, lifting and removing a security freeze on a consumer report. This toll-free number must afford the consumer, during regular business hours, eastern time, access to a person who can supply any additional information needed by the consumer.

- b) Each consumer reporting agency shall place the information set forth in (a) above on its website, including a conspicuous link to that information on its home page. Each consumer reporting agency also shall mail the information in (a) above to consumers, along with the notice "New Jersey Consumers Have the Right to Obtain a Security Freeze" set forth at N.J.S.A. 56:11-46i(1), when:
- 1) The consumer requests information about placement of a security freeze pursuant to N.J.S.A. 56:11-46i(2);
 - 2) The consumer requests a copy of his or her consumer report; or
 - 3) The consumer is entitled to receive a summary of rights required under §609 of the Fair Credit Reporting Act, 15 U.S.C. § 1681 g, incorporated herein by reference, as may be amended and supplemented.
- c) Each consumer reporting agency, by April 17, 2008, shall send in writing, via e-mail to creditinfo@dca.lps.state.nj.us and regular mail to the Press Office, New Jersey Division of Consumer Affairs, 124 Halsey Street 7th floor, Newark, NJ 07101, the information required to be provided to consumers under (a)1i, ii, iv and v and 2 above.
- d) The consumer reporting agency shall communicate in writing, via e-mail and regular mail, any changes to the information supplied to the Division under (c) above within 10 days of implementation of the change.

13:45F-2.2 PLACING A SECURITY FREEZE

- a) Upon receipt of a consumer's written request to place a security freeze on his or her consumer report made in accordance with the procedures provided in N.J.A.C. 13:45F-2.1(a), a consumer reporting agency shall, within five business days of receipt:
- 1) Place the security freeze on the consumer report;
 - 2) Send a written confirmation of the security freeze to the consumer together with instructions on the procedures used by the consumer reporting agency to temporarily lift or remove a security freeze, and a toll-free number that a consumer may use for any further questions; and

- 3) Provide the consumer with a unique PIN or password, other than the consumer's Social Security number or any four or more consecutive numbers of the Social Security number or data element comprising identifying information, to be used by the consumer when providing authorization for the release of his or her credit information for a specific party or period of time or communications with the consumer reporting agency when temporarily lifting a security freeze (N.J.A.C. 13:45F-2.3), removing a security freeze (N.J.A.C. 13:45F-2.4) or changing official information (N.J.A.C. 13:45F-2.5).

13:45F-2.3 TEMPORARILY LIFTING A SECURITY FREEZE

- a) Upon receipt of a consumer's request to temporarily lift a freeze sent by certified or overnight mail or such system of secure electronic media as may be made available by the consumer reporting agency, the consumer reporting agency shall:
 - 1) Lift the freeze if the consumer has properly supplied the following:
 - i) The information necessary for proper identification specified in the information given to the consumer pursuant to N.J.A.C. 13:45F-2.1; and
 - ii) The information to identify the specific third party granted access or the time period for which the consumer report is to be made available;
 - 2) Supply a PIN to the consumer, other than the consumer's PIN, to be given to a third party where access is to be limited to a specified third party; and
 - 3) Comply with the request as expeditiously as possible, but no later than three business days after receiving the request where the request has been made by certified or overnight mail and, when required under (b) below, within 15 minutes where the request has been made by any one of the methods made available to consumers.
- b) Each consumer reporting agency shall develop, within the time frame set forth below, secure procedures involving the use of telephone, fax, the Internet or other generally available electronic media to receive and process a request from a consumer to temporarily lift a security freeze on a consumer report. These procedures shall allow the lifting of a security freeze as expeditiously as possible, with the goal of lifting the security freeze within 15 minutes of receipt of the consumer's request.

- 1) By June 6, 2008, each consumer reporting agency shall provide to the Director, at the street address listed in N.J.A.C. 13:45F-2.1(c), a written plan that, when implemented, will allow the lifting of a security freeze within 15 minutes of receipt of the request to lift; and
 - 2) By August 7, 2008, and in accordance with (b)1 above, each consumer reporting agency shall have technology in place to allow the lifting of a security freeze within 15 minutes of receipt of the request to lift.
- c) Any information that is provided to the Director under (b) above is confidential and proprietary information and shall not be considered a public or government record under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

13:45F-2.4 REMOVING A SECURITY FREEZE

- a) Where a consumer reporting agency has received a request from the consumer to remove a security freeze it shall:
- 1) Remove the freeze if the consumer has supplied the information necessary for proper identification specified in the information given to the consumer pursuant to N.J.A.C. 13:45F-2.1(a)1i and the PIN provided to the consumer pursuant to N.J.A.C. 13:45F-2.2(a)3; and
 - 2) Comply with the request as expeditiously as possible, but no later than three business days after receiving the request.
- b) If a consumer reporting agency intends to remove a security freeze based on a material misrepresentation of fact by a consumer, the consumer reporting agency shall notify the consumer in writing in plain language and shall wait at least five business days after mailing the notice before removing the freeze. The notification to the consumer shall:
- 1) Be sent via first class mail to the consumer at the address on file with the consumer reporting agency;
 - 2) State the basis upon which the consumer reporting agency has concluded that there was a material misrepresentation of fact;

- 3) State the action that the consumer reporting agency intends to take and the effective date of that action; and
- 4) Provide information for contacting the consumer reporting agency, including a telephone number, to dispute its findings.

13:45F-2.5 CHANGING OFFICIAL INFORMATION

- a) Until a security freeze placed on a consumer report is removed, the consumer reporting agency shall not change any official information in the consumer report without first sending a written notice of the change to the consumer. The written notice shall be sent within 30 days of the posting of the intended change to the official information in the consumer report. A consumer reporting agency shall wait at least 10 days after the written notice has been sent before finalizing the change in the consumer's report. The written notice of change shall:
 - 1) State the type of official information that is being changed, without disclosing the actual information, and the reason for the change;
 - 2) Advise the consumer that he or she must contact the consumer reporting agency, in writing by mail or by any other method allowed by the consumer reporting agency, within seven days of the date of the notice if the change in the official information is incorrect; and
 - 3) Be sent to both the consumer's new and old address where the official information being changed is the consumer's address.

13:45F-2.6 LOST PIN OR PASSWORD

- a) Within 24 hours of notification that a consumer has lost his or her PIN or password, the consumer reporting agency shall:
 - 1) Issue a new or reissue the original PIN or password if the consumer has supplied the information necessary for proper identification given to the consumer pursuant to N.J.A.C. 13:45F-2.1; and

- 2) Use a PIN or password, other than the consumer's Social Security number, or any data element comprising identifying information, if issuing a new PIN or password.

13:45F-2.7 FEES

- a) A consumer reporting agency may charge the following fees:
 - 1) Temporary lift or removal of a security freeze up to \$5.00; and
 - 2) Replacement or re-issuance of a lost PIN or password up to \$5.00.
- b) No fee may be charged for placing a security freeze on a consumer report.

SUBCHAPTER 3. (RESERVED)

SUBCHAPTER 4. SOCIAL SECURITY NUMBERS

13:45F-4.1 RESTRICTIONS ON THE COMMUNICATION OF SOCIAL SECURITY NUMBERS

- a) No person, including a public or private entity, shall:
 - 1) Publicly post or publicly display an individual's Social Security number or any four or more consecutive numbers taken from the individual's Social Security number;
 - 2) Print an individual's Social Security number on any materials that are mailed to the individual, unless State or Federal law requires the Social Security number to be on the document to be mailed;
 - 3) Print an individual's Social Security number on any card required for the individual to access products or services provided by the person or public or private entity;

- 4) Require an individual to transmit his or her Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted; or
 - 5) Require an individual to use his or her Social Security number to access an Internet website, unless a password or unique PIN or other authentication device is also required to access the Internet web site.
- b) Nothing in this section shall prevent the collection, use or release of a Social Security number, as required by or to comply with State or Federal law nor shall this subchapter obviate any prohibition on the use of Social Security numbers found in any Federal or State statutes and regulations.
 - c) A public or private entity may use a Social Security number for internal verification and administrative purposes, as long as the use does not require the release of the Social Security number to persons not designated by the entity to perform associated functions allowed or authorized by law.
 - d) Notwithstanding this section, Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the Social Security number. A Social Security number that is permitted to be mailed under this subsection may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.
 - e) Nothing in this subchapter shall apply to documents that are recorded or required to be open to the public pursuant to Title 47 of the Revised Statutes. This section shall not apply to records that are required by statute, case law, or New Jersey court rules, to be made available to the public by entities provided for in Article VI of the New Jersey Constitution.
 - f) Nothing in this subchapter shall apply to the interactive computer service provider's transmissions or routing or intermediate temporary storage or caching of an image, information or data that is otherwise subject to this subchapter.

- g) Where a person or a private entity requests a Social Security number from an individual, the person or private entity, when asked by the individual, shall state the reason for requesting the individual's Social Security number. Where a public entity requests a Social Security number from an individual, the public entity shall affirmatively state the use to which the Social Security number will be put.
- h) Where a person or a public or private entity requests a Social Security number from an individual, the person or public or private entity shall do so in conditions under which the Social Security number will remain confidential. Nothing contained in this subsection shall prohibit a person or public or private entity from using or releasing the Social Security number if otherwise permitted to do so under the Act or any other applicable law.

SUBCHAPTER 5. VIOLATIONS

13:45F-5.1 VIOLATIONS OF SECURITY FREEZE PROVISIONS

- a) Any consumer reporting agency that willfully fails to comply with the requirements of N.J.A.C. 13:45F-2 or N.J.S.A. 56:11-30 or 56:11-46 through 49 shall be liable to a consumer as provided in N.J.S.A. 56:11-38.
- b) Any consumer reporting agency that is negligent in failing to comply with the requirements of N.J.A.C. 13:45F-2 or N.J.S.A. 56:11-30 or 56:11-46 through 49 shall be liable to a consumer as provided in N.J.S.A. 56:11-39.

13:45F-5.2 VIOLATIONS OF BREACH OF SECURITY PROVISIONS

It shall be an unlawful practice and a violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., to willfully, knowingly or recklessly violate N.J.S.A. 56:8-161 through 164.