

AMENDED IN ASSEMBLY JUNE 25, 2002
AMENDED IN ASSEMBLY JUNE 13, 2002
AMENDED IN ASSEMBLY JUNE 12, 2002
AMENDED IN SENATE APRIL 18, 2002
AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1730

Introduced by Senator Bowen
(Coauthor: Assembly Member Alquist)

February 21, 2002

An act to amend Sections 1785.11.1, 1785.11.2, 1785.11.6, and 1798.85 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1730, as amended, Bowen. Personal information.

(1) Existing law authorizes a consumer to place a security alert in his or her credit report by making a request in writing or by telephone to a consumer credit reporting agency, as specified. Existing law requires consumer credit reporting agencies to take specified actions in response to a request by a consumer to place a security freeze, as defined, on his or her credit report. Existing law makes various entities exempt from that requirement.

This bill would additionally exempt from those requirements any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed. The bill also would prohibit any person who uses a consumer credit report in connection with the approval of credit based on an application for an extension of

credit, as defined, or with the purchase, lease, or rental *of goods or noncredit related services*, and who receives notification of a security alert, from lending money, extending credit, or completing the purchase, lease, or rental without taking reasonable steps to verify the consumer’s identity, as specified. The bill would also exempt a fraud prevention services company from the requirement to place a security alert or a security freeze in a credit report, as specified.

(2) Existing law prohibits a person or entity, except as specified, from publicly posting or displaying an individual’s social security number, printing that social security number on a card required for the individual to access products or services or on materials mailed to the individual, or otherwise requiring an individual to transmit or use that social security number. These provisions become operative in the case of a health care service plan, a provider of health care, and other, specified health care related entities as the requirements pertain to individual policyholders, employer groups, and enrollees of state medical insurance programs on various dates, as specified.

This bill would revise those provisions to provide that they shall become operative in the case of the provision by any person or entity of administrative or other services relative to health care or insurance products or services on various dates, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.11.1 of the Civil Code is amended
2 to read:
3 1785.11.1. (a) A consumer may elect to place a security alert
4 in his or her credit report by making a request in writing or by
5 telephone to a consumer credit reporting agency. “Security alert”
6 means a notice placed in a consumer’s credit report, at the request
7 of the consumer, that notifies a recipient of the credit report that
8 the consumer’s identity may have been used without the
9 consumer’s consent to fraudulently obtain goods or services in the
10 consumer’s name.
11 (b) A consumer credit reporting agency shall notify each
12 person requesting consumer credit information with respect to a
13 consumer of the existence of a security alert in the credit report of



1 that consumer, regardless of whether a full credit report, credit
2 score, or summary report is requested.

3 (c) Each consumer credit reporting agency shall maintain a
4 toll-free telephone number to accept security alert requests from
5 consumers 24 hours a day, seven days a week.

6 (d) The toll-free telephone number shall be included in any
7 written disclosure by a consumer credit reporting agency to any
8 consumer pursuant to Section 1785.15 and shall be printed in a
9 clear and conspicuous manner.

10 (e) A consumer credit reporting agency shall place a security
11 alert on a consumer's credit report no later than five business days
12 after receiving a request from the consumer.

13 (f) The security alert shall remain in place for at least 90 days,
14 and a consumer shall have the right to request a renewal of the
15 security alert.

16 (g) Any person who uses a consumer credit report in
17 connection with the approval of credit based on an application for
18 an extension of credit, or with the purchase, lease, or rental of
19 goods or noncredit related services and who receives notification
20 of a security alert pursuant to subdivision (a) of this section may
21 not lend money, extend credit, or complete the purchase, lease, or
22 rental of goods or noncredit related services without taking
23 reasonable steps to verify the consumer's identity, in order to
24 ensure that the application for an extension of credit or for the
25 purchase, lease, or rental of goods or noncredit related services is
26 not the result of identity theft. If the consumer has placed a
27 statement with the security alert in his or her file requesting that
28 identity be verified by calling a specified telephone number, any
29 person who receives that statement with the security alert in a
30 consumer's file pursuant to subdivision (a) shall take reasonable
31 steps to verify the identity of the consumer by contacting the
32 consumer using the specified telephone number prior to lending
33 money, extending credit, or completing the purchase, lease, or
34 rental of goods or noncredit related services. If a person uses a
35 consumer credit report to facilitate the extension of credit or for
36 another permissible purpose on behalf of a subsidiary, affiliate,
37 agent, assignee, or prospective assignee, that person may verify a
38 consumer's identity under this section in lieu of the subsidiary,
39 affiliate, agent, assignee, or prospective assignee.



1 (h) For the purposes of this section, “extension of credit” does
2 not include an increase in the dollar limit of an existing open-end
3 credit plan, as defined in Regulation Z of the Federal Reserve
4 System (12 C.F.R. 226.2), or any change to or review of an existing
5 credit account.

6 (i) If reasonable steps are taken to verify the identity of the
7 consumer pursuant to subdivision (b) of Section 1785.20.3, those
8 steps constitute compliance with the requirements of this section,
9 except if a consumer has placed a statement including a telephone
10 number with the security alert in his or her file, an identity shall
11 be verified by contacting the consumer using the telephone
12 number specified pursuant to subdivision (g).

13 SEC. 2. Section 1785.11.2 of the Civil Code is amended to
14 read:

15 1785.11.2. (a) A consumer may elect to place a security
16 freeze on his or her credit report by making a request in writing by
17 certified mail to a consumer credit reporting agency. “Security
18 freeze” means a notice placed in a consumer’s credit report, at the
19 request of the consumer and subject to certain exceptions, that
20 prohibits the consumer credit reporting agency from releasing the
21 consumer’s credit report or any information from it without the
22 express authorization of the consumer. If a security freeze is in
23 place, information from a consumer’s credit report may not be
24 released to a third party without prior express authorization from
25 the consumer. This subdivision does not prevent a consumer credit
26 reporting agency from advising a third party that a security freeze
27 is in effect with respect to the consumer’s credit report.

28 (b) A consumer credit reporting agency shall place a security
29 freeze on a consumer’s credit report no later than five business
30 days after receiving a written request from the consumer.

31 (c) The consumer credit reporting agency shall send a written
32 confirmation of the security freeze to the consumer within 10
33 business days and shall provide the consumer with a unique
34 personal identification number or password to be used by the
35 consumer when providing authorization for the release of his or
36 her credit for a specific party or period of time.

37 (d) If the consumer wishes to allow his or her credit report to
38 be accessed for a specific party or period of time while a freeze is
39 in place, he or she shall contact the consumer credit reporting



1 agency, request that the freeze be temporarily lifted, and provide
2 the following:

3 (1) Proper identification, as defined in subdivision (c) of
4 Section 1785.15.

5 (2) The unique personal identification number or password
6 provided by the credit reporting agency pursuant to subdivision
7 (c).

8 (3) The proper information regarding the third party who is to
9 receive the credit report or the time period for which the report
10 shall be available to users of the credit report.

11 (e) A consumer credit reporting agency that receives a request
12 from a consumer to temporarily lift a freeze on a credit report
13 pursuant to subdivision (d), shall comply with the request no later
14 than three business days after receiving the request.

15 (f) A consumer credit reporting agency may develop
16 procedures involving the use of telephone, fax, the Internet, or
17 other electronic media to receive and process a request from a
18 consumer to temporarily lift a freeze on a credit report pursuant to
19 subdivision (d) in an expedited manner.

20 (g) A consumer credit reporting agency shall remove or
21 temporarily lift a freeze placed on a consumer's credit report only
22 in the following cases:

23 (1) Upon consumer request, pursuant to subdivision (d) or (j).

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

30 (h) If a third party requests access to a consumer credit report
31 on which a security freeze is in effect, and this request is in
32 connection with an application for credit or any other use, and the
33 consumer does not allow his or her credit report to be accessed for
34 that specific party or period of time, the third party may treat the
35 application as incomplete.

36 (i) If a consumer requests a security freeze, the consumer credit
37 reporting agency shall disclose the process of placing and
38 temporarily lifting a freeze, and the process for allowing access to
39 information from the consumer's credit report for a specific party
40 or period of time while the freeze is in place.



1 (j) A security freeze shall remain in place until the consumer
2 requests that the security freeze be removed. A consumer credit
3 reporting agency shall remove a security freeze within three
4 business days of receiving a request for removal from the
5 consumer, who provides both of the following:

6 (1) Proper identification, as defined in subdivision (c) of
7 Section 1785.15.

8 (2) The unique personal identification number or password
9 provided by the credit reporting agency pursuant to subdivision
10 (c).

11 (k) A consumer credit reporting agency shall require proper
12 identification, as defined in subdivision (c) of Section 1785.15, of
13 the person making a request to place or remove a security freeze.

14 (l) The provisions of this section do not apply to the use of a
15 consumer report by any of the following:

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

30 (2) A subsidiary, affiliate, agent, assignee, or prospective
31 assignee of a person to whom access has been granted under
32 subdivision (d) of Section 1785.11.2 for purposes of facilitating
33 the extension of credit or other permissible use.

34 (3) Any state or local agency, law enforcement agency, trial
35 court, or private collection agency acting pursuant to a court order,
36 warrant, or subpoena.

37 (4) A child support agency acting pursuant to Chapter 2 of
38 Division 17 of the Family Code or Title IV-D of the Social Security
39 Act (42 U.S.C. et seq.).



1 (5) The State Department of Health Services or its agents or
2 assigns acting to investigate Medi-Cal fraud.

3 (6) The Franchise Tax Board or its agents or assigns acting to
4 investigate or collect delinquent taxes or unpaid court orders or to
5 fulfill any of its other statutory responsibilities.

6 (7) The use of credit information for the purposes of
7 prescreening as provided for by the federal Fair Credit Reporting
8 Act.

9 (8) Any person or entity administering a credit file monitoring
10 subscription service to which the consumer has subscribed.

11 (m) This act does not prevent a consumer credit reporting
12 agency from charging a reasonable fee to a consumer who elects
13 to freeze, remove the freeze, or temporarily lift the freeze
14 regarding access to a consumer credit report, except that a
15 consumer reporting agency may not charge a fee to a victim of
16 identity theft who has submitted a valid police report or valid
17 Department of Motor Vehicles investigative report that alleges a
18 violation of Section 530.5 of the Penal Code.

19 SEC. 3. Section 1785.11.6 of the Civil Code is amended to
20 read:

21 1785.11.6. The following entities are not required to place in
22 a credit report either a security alert, pursuant to Section
23 1785.11.1, or a security freeze, pursuant to Section 1785.11.2:

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

28 (b) A demand deposit account information service company,
29 which issues reports regarding account closures due to fraud,
30 substantial overdrafts, ATM abuse, or similar negative
31 information regarding a consumer, to inquiring banks or other
32 financial institutions for use only in reviewing a consumer request
33 for a demand deposit account at the inquiring bank or financial
34 institution.

35 SEC. 4. Section 1798.85 of the Civil Code is amended to read:

36 1798.85. (a) A person or entity, not including a state or local
37 agency, may not do any of the following:

38 (1) Publicly post or publicly display in any manner an
39 individual's social security number. "Publicly post" or "publicly



1 display” means to intentionally communicate or otherwise make
2 available to the general public.

3 (2) Print an individual’s social security number on any card
4 required for the individual to access products or services provided
5 by the person or entity.

6 (3) Require an individual to transmit his or her social security
7 number over the Internet, unless the connection is secure or the
8 social security number is encrypted.

9 (4) Require an individual to use his or her social security
10 number to access an Internet Web site, unless a password or unique
11 personal identification number or other authentication device is
12 also required to access the Web site.

13 (5) Print an individual’s social security number on any
14 materials that are mailed to the individual, unless state or federal
15 law requires the social security number to be on the document to
16 be mailed. Notwithstanding this paragraph, social security
17 numbers may be included in applications and forms sent by mail,
18 including documents sent as part of an application or enrollment
19 process, or to establish, amend or terminate an account, contract
20 or policy, or to confirm the accuracy of the social security number.

21 (b) Except as provided in subdivision (c), subdivision (a)
22 applies only to the use of social security numbers on or after July
23 1, 2002.

24 (c) Except as provided in subdivision (f), a person or entity, not
25 including a state or local agency, that has used, prior to July 1,
26 2002, an individual’s social security number in a manner
27 inconsistent with subdivision (a), may continue using that
28 individual’s social security number in that manner on or after July
29 1, 2002, if all of the following conditions are met:

30 (1) The use of the social security number is continuous. If the
31 use is stopped for any reason, subdivision (a) shall apply.

32 (2) The individual is provided an annual disclosure,
33 commencing in the year 2002, that informs the individual that he
34 or she has the right to stop the use of his or her social security
35 number in a manner prohibited by subdivision (a).

36 (3) A written request by an individual to stop the use of his or
37 her social security number in a manner prohibited by subdivision
38 (a) shall be implemented within 30 days of the receipt of the
39 request. There shall be no fee or charge for implementing the
40 request.



1 (4) A person or entity, not including a state or local agency,
2 shall not deny services to an individual because the individual
3 makes a written request pursuant to this subdivision.

4 (d) This section does not prevent the collection, use, or release
5 of a social security number as required by state or federal law or
6 the use of a social security number for internal verification or
7 administrative purposes.

8 (e) This section does not apply to documents that are recorded
9 or required to be open to the public pursuant to Chapter 3.5
10 (commencing with Section 6250), Chapter 14 (commencing with
11 Section 7150) or Chapter 14.5 (commencing with Section 7220)
12 of Division 7 of Title 1 of, or Chapter 9 (commencing with Section
13 54950) of Part 1 of Division 2 of Title 5 of, the Government Code.
14 This section does not apply to records that are required by statute,
15 case law, or California Rule of Court, to be made available to the
16 public by entities provided for in Article VI of the California
17 Constitution.

18 (f) (1) In the case of a health care service plan, a provider of
19 health care, an insurer or a pharmacy benefits manager, a
20 contractor as defined in Section 56.05, or the provision by any
21 person or entity of administrative or other services relative to
22 health care or insurance products or services, including third-party
23 administration or administrative services only, this section shall
24 become operative in the following manner:

25 (A) On or before January 1, 2003, the entities listed in
26 paragraph (1) of subdivision (f) shall comply with paragraphs (1),
27 (3), (4), and (5) of subdivision (a) as these requirements pertain to
28 individual policyholders or individual contract holders.

29 (B) On or before January 1, 2004, the entities listed in
30 paragraph (1) of subdivision (f) shall comply with paragraphs (1)
31 to (5), inclusive, of subdivision (a) as these requirements pertain
32 to new individual policyholders or new individual contractholders
33 and new ~~employer~~ groups, ~~and~~ *including* new groups
34 administered *or* issued on or after January 1, 2004.

35 (C) On or before July 1, 2004, the entities listed in paragraph
36 (1) of subdivision (f) shall comply with paragraphs (1) to (5),
37 inclusive, of subdivision (a) for all individual policyholders and
38 individual contractholders, for all groups, and for all enrollees of
39 the Healthy Families and Medi-Cal programs, except that for
40 individual policyholders, individual contractholders and groups in



1 existence prior to January 1, 2004, the entities listed in paragraph
2 (1) of subdivision (f) shall comply upon the renewal date of the
3 policy, contract, or group on or after July 1, 2004, but no later than
4 July 1, 2005.

5 (2) A health care service plan, a provider of health care, an
6 insurer or a pharmacy benefits manager, a contractor, or another
7 person or entity as described in paragraph (1) of subdivision (f)
8 shall make reasonable efforts to cooperate, through systems
9 testing and other means, to ensure that the requirements of this
10 article are implemented on or before the dates specified in this
11 section.

12 (3) Notwithstanding paragraph (2), the Director of the
13 Department of Managed Health Care, pursuant to the authority
14 granted under Section 1346 of the Health and Safety Code, or the
15 Insurance Commissioner, pursuant to the authority granted under
16 Section 12921 of the Insurance Code, and upon a determination of
17 good cause, may grant extensions not to exceed six months for
18 compliance by health care service plans and insurers with the
19 requirements of this section when requested by the health care
20 service plan or insurer. Any extension granted shall apply to the
21 health care service plan or insurer's affected providers, pharmacy
22 benefits manager, and contractors.

23 (g) If a federal law takes effect requiring the United States
24 Department of Health and Human Services to establish a national
25 unique patient health identifier program, a provider of health care,
26 a health care service plan, a licensed health care professional, or
27 a contractor, as those terms are defined in Section 56.05, that
28 complies with the federal law shall be deemed in compliance with
29 this section.

