

CHAPTER 45F
IDENTITY THEFT

Authority

N.J.S.A. 56:8-161 to 166 and 56:11-44 to 50.

Source and Effective Date

R.2008 d.80, effective April 7, 2008.
See: 39 N.J.R. 1397(a), 40 N.J.R. 1898(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 45F, Identity Theft, expires on April 7, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 45F, Identity Theft, was adopted as new rules by R.2008 d.80, effective April 7, 2008. See: Source and Effective Date.

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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);