

HOUSE No. 265

By Mr. Koczera of New Bedford, petition of Robert M. Koczera and others for legislation to protect identity theft victims. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

PETITION OF:

Robert M. Koczera	Robert K. Coughlin
Gale D. Candaras	Lewis G. Evangelidis
Stephen M. Brewer	John J. Binienda
Brian A. Joyce	John F. Quinn
Christine E. Canavan	Antonio F. D. Cabral
Stephen R. Canessa	Stephen Kulik
James E. Timilty	

In the Year Two Thousand and Seven.

AN ACT TO PROTECT IDENTITY THEFT VICTIMS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 37E of Chapter 266 of the General Laws,
2 as appearing in the 2000 Official Edition, is hereby amended by
3 adding the following paragraphs:—
4 (f) A person who learns or reasonably suspects that an identity
5 thief has unlawfully used the person’s personal identifying infor-
6 mation, as described in subdivision (b), may contact the local law
7 enforcement agency that has jurisdiction over the person's actual
8 residence to initiate an investigation.
9 (g) A local law enforcement officer shall take a police report
10 of and incident of identity theft and provide the complainant with
11 a copy of the report. If the suspected crime originated in a dif-
12 ferent jurisdiction, the local law enforcement officer shall refer
13 the matter to the law enforcement agency where the suspected
14 crime occurred.

1 SECTION 2. Section 50 of Chapter 93 of the General Laws, as
2 so appearing, is hereby amended by adding the following para-
3 graphs:—

4 “Security freeze”, a notice on the consumer report that prohibits
5 a consumer credit reporting agency from releasing information in
6 the consumer’s credit report without the consumer’s express
7 authorization.

8 “Fraud alert”, a warning to an individual who receives informa-
9 tion in a credit report that a person other than the consumer may
10 have used the consumer’s identifying information without the con-
11 sumer’s consent.

1 SECTION 3. Chapter 93 of the General Laws, as so appearing,
2 is hereby amended by inserting after section 51 the following sec-
3 tions:—

4 Section 51A. Change of Address; Notice.

5 A consumer reporting agency shall notify a credit issuer
6 requesting a consumer report for an individual of a discrepancy
7 between the address the consumer reporting agency has on file for
8 the individual and the address the credit issuer has on the applica-
9 tion for credit requested on behalf of the individual.

10 Section 51B. Security Freeze; Security Alert.

11 (a) A consumer may elect to place a security freeze on the con-
12 sumer’s credit report by making a request in writing to a
13 consumer credit reporting agency.

14 (b) When a security freeze is in place, a consumer reporting
15 agency shall not release information from a consumer’s
16 credit report to a third party without prior express autho-
17 rization from the consumer.

18 (c) A consumer reporting agency shall maintain a security
19 freeze on a consumer’s credit report until the consumer
20 requests in writing that the credit reporting agency remove
21 the security freeze.

22 (d) A consumer may elect to place a security alert in the con-
23 sumer’s credit report by making a request in writing or by
24 telephone to a consumer reporting agency.

25 (e) When a credit issuer or another person requests a full con-
26 sumer report, credit score, or summary report, a consumer
27 reporting agency shall notify the requester that a security
28 alert exists on the consumer report, by including such
29 information in writing, as part of any requested informa-
30 tion.

1 SECTION 4. Section 56 of Chapter 93 of the General Laws, as
2 so appearing, is hereby amended by adding the following para-
3 graphs:—

4 You have the right to place a “security alert” in your credit
5 report, which warns anyone who receives information in your
6 credit report that another person may have used your identifying
7 information without your consent and that any credit issuer should
8 verify identity before extending credit under your name.

9 You have the right to place a “security freeze” on your credit
10 report, which will prohibit a consumer credit reporting agency
11 from releasing any information in your credit report without your
12 express authorization.

1 SECTION 5. Chapter 93 of the General Laws, as so appearing,
2 is hereby amended by adding the following sections:—

3 Section 115. Credit Card Issuers; Change of Address; Notice.

4 (a) A credit card issuer that mails an offer or solicitation for a
5 credit card and, in response, receives a completed applica-
6 tion for a credit card that lists an address that is different
7 from the address on the offer or solicitation shall verify the
8 change of address.

9 (b) When a credit card issuer receives a written or oral request
10 for an additional credit card within 10 days after receiving
11 a written or oral request for a change of address, the credit
12 card issuer shall not mail the requested additional credit
13 card to the new address or, alternatively, activate the
14 requested additional credit card, unless the credit card
15 issuer has verified the change of address.

16 (c) To verify a change of address under subsection (a) and (b),
17 a credit card issuer shall mail a request for confirmation to
18 both the new and former address of a person for whom the
19 change of address was requested.

20 Section 116. Failure to Comply with the Security Alert;
21 Penalty.

22 A credit issuer, who fails to comply with the preauthorization
23 procedures required under sections 51A and 115, and issues or
24 extends credit in the name of the consumer to a person other than
25 the consumer, shall be liable for a civil penalty of no more than
26 \$5,000 for each such violation. The attorney general may file a
27 civil action in the superior court in the name of the common-
28 wealth to recover such penalties.

29 Section 117. Enforcement by the executive office of consumer
30 affairs.

31 (a) No later than 6 months after the date of enactment of this
32 Act, the director of the executive office of consumer affairs
33 shall develop a standard form and standard procedures for
34 consumers who are victims of identity fraud to use in cor-
35 recting credit problems relating to identity theft.

36 (b) The director shall issue educational pamphlets to the public
37 and provide consultation to the attorney general and local
38 law enforcement agencies concerning issues of identity
39 theft.

40 (c) A consumer reporting agency shall adopt the executive
41 office's standard form and standard procedure when han-
42 dling identity fraud complaints of a Massachusetts resident.

43 Section 118. Monitoring and Evaluation

44 For 10 years following the date of the Act's enactment, on a
45 biannual basis the director of the executive office of consumer
46 affairs shall solicit feedback from the general public concerning
47 the provision of this Act, and present a report concerning the Act's
48 implementation to the legislature.