

Murdo, Patricia

From: hillga@consumer.org
Sent: Wednesday, June 14, 2006 5:00 PM
To: Murdo, Patricia
Subject: Technical suggestions on posted security freeze draft

Consumers Union, the nonprofit publisher of *Consumer Reports*, offers some technical comments on the posted security freeze draft. In addition to these technical comments, Consumers Union is very concerned about the high cost to consumers of using the freeze if the fees set forth in this draft are later approved by the Committee, and about certain other future decisions on the draft that will affect the ease of use of the security freeze. The recent Department of Veterans Affairs data security breach has highlighted the need for all consumers, including veterans, to have a simple, easy to use, low cost tool for the prevention of new accounts identity theft.

Here are four technical issues that the working group could address and perhaps resolve:

1. Proof of victim status: At page 11, section 10, the draft requires victims to submit a police report in order to qualify for treatment as a victim for fee purposes. Texas, Nevada, and the just enacted revision to the Illinois law all permit, as an alternative to a police report: "an investigative report or complaint which the consumer has filed with a law enforcement agency." Adding this language would protect a consumer who complains to the local police department but is told that a report will not be taken because the perpetrator is from outside the state. This language also acknowledges that another agency might issue a report, such as the DMV.
2. Undefined term: "consumer report" is a defined term, "consumer credit report" is not: The draft contains bracketed language suggesting the term "consumer credit report" be used in various places. Federal law has a definition of "consumer report" and the bill defines "credit report." There is no legal definition of "consumer credit report" in federal law, no definition in the bill, and probably no definition elsewhere in Montana law. The bolded language asks whether "credit" should be added everywhere that "consumer report" appears in the bill. This is unnecessary, could be confusing, and would mean that the bill would use an undefined term. Instead, the bill could simply apply the definition at section 1(3) to both "consumer report" and "credit report." Then, either of the two terms could be used throughout the bill, so long as the reference to the credit score that now appears on page 2 of the draft is also retained. If the term "consumer credit report" becomes the phrase to be used, then the definition in section 1(3) would have to be amended so that this definition applied to that new term.
3. More information is needed about CDIA's proposal for an "other device" instead of a PIN or password. This proposal can't be evaluated without knowing what the CRAs have in mind, and it may be a bad idea. If it hasn't already done so, perhaps at the meeting CDIA could be asked to describe what kinds of devices they have in mind to replace a PIN or passcode, whether any of those devices are in use now, and why Montana should allow this "other device" when most states require a PIN or a passcode. The CDIA should make the case for why this language is needed and what types of devices it would authorize. At a minimum, if an "other device" is permitted by the draft, the draft should also require that the device be one which "provides at least the same level of security as a PIN or passcode."
4. Slight suggested change in provision to provide faster lift when so provided in other states. The bolded language on page 5, sec. 4(d)(2) on faster lifting when required by another state probably should be changed to read: "or at the earliest time generally provided to consumers in another state, whichever is earlier." This makes it clear that the trigger is the factual circumstance that it is generally provided to consumers in another state, not the policy decision of another state's legislature.

As always, I hope these suggestions are helpful.