

1 AN ACT relating to data privacy.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Consumer report" has the same meaning as in the federal Fair Credit*  
7 *Reporting Act, 15 U.S.C. sec. 1681a, as amended;*

8 *(b) "Consumer reporting agency" has the same meaning as in the federal Fair*  
9 *Credit Reporting Act, 15 U.S.C. sec. 1681a, as amended; and*

10 *(c) "Financial institution" means any bank, credit union, mortgage loan*  
11 *broker, mortgage loan company, consumer loan company, deferred deposit*  
12 *service business, or other person that engages in the business of lending*  
13 *money in Kentucky.*

14 *(2) If a financial institution requests a person's consumer report or credit score from*  
15 *a consumer reporting agency, the consumer reporting agency shall not, solely or*  
16 *in part on the basis of that request, furnish the person's consumer report or credit*  
17 *score or any other information about the person to a third party unless the*  
18 *consumer reporting agency has obtained a written consent and acknowledgment*  
19 *from the person that authorizes the consumer reporting agency to engage in that*  
20 *activity.*

21 *(3) (a) The Attorney General may institute an action in any court of competent*  
22 *jurisdiction against any consumer reporting agency alleged to have violated*  
23 *this section.*

24 *(b) A person may institute a civil action in any court of competent jurisdiction*  
25 *against any consumer reporting agency alleged to have furnished the*  
26 *person's consumer report, credit score, or any other information about the*  
27 *person to a third party in violation of this section.*

1        (c) In any action brought under this subsection, if the court finds that the  
2        consumer reporting agency has violated this section:

3        1. The plaintiff may:

4            a. Obtain an injunction to enjoin a continuance of the unlawful  
5            activity;

6            b. Recover damages at three (3) times the amount of any actual  
7            damages sustained, which shall be paid to the injured person or  
8            persons; and

9            c. Be awarded reasonable attorney's fees and costs; and

10        2. In addition to the remedies and penalties provided under  
11        subparagraph 1. of this paragraph:

12            a. A plaintiff other than the Attorney General may recover a  
13            statutory penalty of two thousand dollars (\$2,000) per violation;  
14            and

15            b. The Attorney General may recover civil penalties not to exceed  
16            two thousand dollars (\$2,000) per violation.

17        (d) It shall not be necessary for actual damages to be alleged or proved in order  
18        to recover injunctive relief, attorney's fees and costs, or the statutory penalty  
19        or civil penalties authorized in paragraph (c)2. of this subsection.

20        (4) (a) The remedies and penalties prescribed in this section shall be cumulative.

21        (b) Nothing in this section shall be construed to limit or restrict the powers,  
22        duties, remedies, or penalties available to the Attorney General, the  
23        Commonwealth, or any other person under any other statutory or common  
24        law.

25        (5) The Attorney General may promulgate administrative regulations in accordance  
26        with KRS Chapter 13A as necessary to effectuate, or as an aid to the effectuation  
27        of, the enforcement of this section.

1           ➔Section 2. If any provision of this Act, or this Act's application to any person or  
2           circumstance, is held invalid, the invalidity shall not affect other provisions or  
3           applications of the Act, which shall be given effect without the invalid provision or  
4           application, and to this end the provisions and applications of this Act are severable.