

SECOND REGULAR SESSION

HOUSE BILL NO. 1618

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCCAHERTY.

4520H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 407.1380 and 407.1382, RSMo, and to enact in lieu thereof three new sections relating to identity theft.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 407.1380 and 407.1382, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 407.1380, 407.1382, and 407.1387, to read as follows:

407.1380. As used in sections 407.1380 to [407.1384] **407.1387**, the following terms shall mean:

(1) "Account review", activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) "Consumer", any individual;

(3) "Consumer credit reporting agency", any entity that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties. The term "consumer credit reporting agency" shall not include an entity that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer credit reporting agency and who does not maintain a permanent database of credit information from which consumer reports are produced and who does not furnish consumer reports to third parties;

(4) "Credit report", any written or electronic communication of any information by a consumer credit reporting agency that in any way bears upon a person's credit worthiness, credit capacity, or credit standing;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 17 (5) **"Protected consumer", an individual who is under sixteen years of age at the**
18 **time a request for the placement of a security freeze is made under section 407.1387;**
- 19 (6) **"Protected consumer security freeze", a security freeze placed on a protected**
20 **consumer's credit report or on a protected consumer's file under section 407.1387;**
- 21 (7) **"Protected consumer's file", a record that:**
- 22 (a) **Identifies a protected consumer;**
- 23 (b) **Is created by a consumer credit reporting agency solely for the purpose of**
24 **complying with the requirements of section 407.1387; and**
- 25 (c) **Shall not be created or used to consider the protected consumer's credit**
26 **worthiness, credit standing, credit capacity, character, general reputation, personal**
27 **characteristics, or mode of living;**
- 28 (8) **"Representative", a person who provides to a consumer credit reporting agency**
29 **sufficient proof of authority to act on behalf of a protected consumer;**
- 30 (9) **"Security freeze", a notice placed in a consumer's credit report, at the request of the**
31 **consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency**
32 **from releasing the consumer's credit report or score relating to the extension of credit without**
33 **the express authorization of the consumer;**
- 34 (10) **"Sufficient proof of identification", information or**
35 **documentation that identifies a protected consumer or representative, including the**
36 **following:**
- 37 (a) **A Social Security number or a copy of a Social Security card issued by the**
38 **Social Security Administration;**
- 39 (b) **A certified or official copy of a birth certificate issued by the entity authorized**
40 **to issue the birth certificate;**
- 41 (c) **A copy of a driver's license, an identification card issued by the Missouri**
42 **department of revenue, or any other government-issued identification;**
- 43 (d) **A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric,**
44 **oil, or natural gas service, which shows a name and home address.**

407.1382. 1. A consumer may request that a consumer credit reporting agency place a
2 security freeze on that consumer's credit report, if that request is made:

3 (1) In writing, where delivery by standard U.S. Postal Service mail service shall be
4 sufficient; or

5 (2) By other reliable means, including, but not limited to, internet, telephone, facsimile,
6 or other electronic means if any such other means are provided by the consumer credit reporting
7 agency; and

8 (3) Proper identification is presented to adequately identify the requestor as the consumer
9 subject to the credit report.

10 2. A consumer credit reporting agency shall honor a consumer's request for a security
11 freeze within five business days of receipt of such request. A consumer credit reporting agency
12 [may] **shall not** assess a fee [of up to five dollars for the first request by a consumer to place a
13 security freeze, and up to ten dollars for any subsequent request] to place a security freeze made
14 by the same consumer[, except that at no time shall a fee be assessed for a request to place a
15 security freeze if the request is accompanied by an] , **and no** incident report as defined under
16 section 570.222 **shall be required**.

17 3. **A security freeze shall remain in effect until the consumer requests the consumer**
18 **credit reporting agency to remove the security freeze. Such request shall be made:**

19 (1) **In writing, where delivery by standard U.S. Postal**

20 **Service mail service shall be sufficient; or**

21 (2) **By other reliable means, including, but not limited to, internet, telephone,**
22 **facsimile, or other electronic means if any such other means are provided by the consumer**
23 **credit reporting agency; and**

24 (3) **Proper identification is presented to adequately identify the requestor as the**
25 **consumer subject to the credit report.**

26 4. A consumer credit reporting agency shall, within ten business days of placing a
27 security freeze on the consumer's credit report, send the consumer:

28 (1) Written confirmation of compliance with the consumer's request;

29 (2) Instructions explaining the process of placing, temporarily lifting, or permanently
30 removing a security freeze and the process for allowing access to information from the
31 consumer's credit report for a specific requestor or period of time;

32 (3) A unique personal identification number or password to be used by the consumer to
33 temporarily lift or permanently remove the security freeze or designate a specific requestor for
34 receipt of the credit report despite the security freeze.

35 [4.] 5. A consumer credit reporting agency shall not furnish a credit report to any person
36 if the consumer who is subject to the credit report has requested a security freeze be placed on
37 that report unless the credit report:

38 (1) Is requested by the consumer who is subject to the report;

39 (2) Is furnished under a court order;

40 (3) Is furnished during a period in which the consumer has temporarily lifted the freeze;

41 (4) Is requested for the purposes of prescreening as provided by the Fair Credit Reporting
42 Act under 15 U.S.C. 1681, et seq.;

43 (5) Is requested by a child support enforcement agency;

44 (6) Is requested for use in setting or adjusting a rate, underwriting, adjusting a claim, or
45 servicing a policy for insurance purposes;

46 (7) Is requested by a specific person, or the subsidiary, affiliate, agent, or assignee of
47 such person, whom the consumer has identified as eligible for receipt of the credit report under
48 subsection 6 of this section, despite the consumer's request for a security freeze;

49 (8) Is furnished to a person, or the subsidiary, affiliate, agent, or assignee of such person,
50 with whom the consumer has a debtor-creditor relationship for the purpose of account review
51 or collecting the financial obligation owing for the account contract or debt;

52 (9) Is requested by the state or its agents or assigns for the purpose of investigating fraud
53 or investigating or collecting delinquent taxes to the extent consistent with a permissible purpose
54 under 15 U.S.C. 1681; or

55 (10) Is requested by a person or entity administering a credit file monitoring service or
56 similar service to which the consumer has subscribed.

57 [5.] 6. If a security freeze is in place, a consumer credit reporting agency shall not change
58 any of the following official information in a consumer credit report without sending a written
59 confirmation of the change to the consumer within thirty days of the change being posted to the
60 consumer's file:

61 name, date of birth, Social Security number, and address. Written confirmation is not required
62 for technical modifications of a consumer's official information, including name and street
63 abbreviations, complete spellings, or transposition of numbers or letters. In the case of an
64 address change, the written confirmation shall be sent to both the new address and to the former
65 address.

66 [6.] 7. A consumer may request that the consumer credit reporting agency temporarily
67 lift a security freeze for a specific requestor or period of time despite the consumer request for
68 a security freeze under subsection 1 of this section, if that request is made:

69 (1) In writing, where delivery by standard U.S. Postal Service mail service shall be
70 sufficient; or

71 (2) By other reliable means, including, but not limited to, internet, telephone, facsimile,
72 or other electronic means if any such other means are provided by the consumer credit reporting
73 agency; and

74 (3) Proper identification is presented to adequately identify the requestor as the consumer
75 subject to the credit report, which shall include the unique personal identification number or
76 password issued to the consumer under subsection 3 of this section; and

77 (4) The time period is specified for which the freeze shall be temporarily lifted.

78 [7.] 8. (1) A consumer credit reporting agency shall temporarily lift a security freeze
79 within fifteen minutes of receiving such a request from a consumer, if that request is received

80 during normal business hours and is made in accordance with subdivisions (2), (3), and (4) of
81 subsection 6 of this section. If such a lift request is received outside of normal business hours,
82 the consumer credit reporting agency shall lift the security freeze within fifteen minutes of the
83 start of the next normal business day.

84 (2) A consumer credit reporting agency shall temporarily lift a security freeze within
85 three days of receiving such a request from a consumer, if that request is made in accordance
86 with subdivisions (1), (3), and (4) of subsection 6 of this section.

87 (3) The time frame in which a consumer credit reporting agency shall comply with a
88 request to lift a security freeze under this subsection may be extended in the event of an act of
89 God, an unauthorized or illegal act by a third party, operational interruption due to electrical
90 failure or hardware or software failure, government action, or reasonable unexpected
91 maintenance of the agency's systems, provided that the lifting of a security freeze shall occur
92 within a reasonable time after resumption of normal business operations.

93 [8.] 9. A consumer credit reporting agency shall permanently remove a security freeze
94 within three days of receiving such a request from a consumer, if that request is made:

95 (1) In writing, where delivery by standard U.S. Postal Service mail service shall be
96 sufficient; or

97 (2) By reliable means, including, but not limited to, internet, telephone, facsimile, or
98 other electronic means if any such other means are provided by the consumer credit reporting
99 agency; and

100 (3) Proper identification is presented to adequately identify the requestor as the consumer
101 subject to the credit report, which shall include the unique personal identification number or
102 password issued to the consumer under subsection 3 of this section.

103 [9.] 10. A consumer credit reporting agency [may] **shall not** assess a fee [of up to five
104 dollars] to temporarily lift **or permanently remove** a security freeze[, except that at no time shall
105 a fee be assessed for a request to temporarily lift a security freeze that was placed in conjunction
106 with an incident report under subsection 2 of this section. No fee shall be assessed for a request
107 to permanently remove a security freeze].

108 [10.] 11. At any time a consumer is required to receive a summary of rights under 15
109 U.S.C. Section 1681g(d), the following notice shall be included: "Missouri Consumers Have the
110 Right to Obtain a Security Freeze.

111 You have a right to place a "security freeze" on your credit report, which will prohibit a
112 consumer credit reporting agency from releasing information in your credit report without your
113 express authorization. A security freeze must be requested in writing by mail or via other
114 approved methods. The security freeze is designed to prevent credit, loans, and services from
115 being approved in your name without your consent. However, you should be aware that using

116 a security freeze to take control over who gets access to the personal and financial information
117 in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent
118 request or application you make regarding a new loan, credit, mortgage, government services or
119 payments, rental housing, employment, investment, license, cellular phone, utilities, digital
120 signature, internet credit card transaction, or other services, including an extension of credit at
121 point of sale. When you place a security freeze on your credit report, you will be provided a
122 personal identification number or password to use if you choose to remove the freeze on your
123 credit report or authorize the release of your credit report for a period of time after the freeze is
124 in place. To provide that authorization you must contact the consumer credit reporting agency
125 and provide all of the following: (1) The personal identification number or password; (2) Proper
126 identification to verify your identity; (3) The proper information regarding the period of time
127 for which the report shall be available.

128 A consumer credit reporting agency must authorize the release of your credit report no
129 later than fifteen minutes after receiving the above information, under certain circumstances.

130 A security freeze does not apply to a person or entity, or its affiliates, or collection
131 agencies acting on behalf of the person or entity, with which you have an existing account, that
132 requests information in your credit report for the purposes of reviewing or collecting the account.
133 Reviewing the account includes activities related to account maintenance, monitoring, credit line
134 increases, and account upgrades and enhancements.

135 You have a right to bring civil action against anyone, including a consumer credit
136 reporting agency, who improperly obtains access to a file, knowingly misuses file data, or fails
137 to correct inaccurate file data."

**407.1387. 1. A consumer credit reporting agency shall place a protected consumer
2 security freeze on the protected consumer's credit report or on the protected consumer's
3 file in accordance with subsection 2 of this section within thirty days of all of the following
4 conditions being satisfied:**

**5 (1) The consumer credit reporting agency receives a request under this section from
6 the protected consumer's representative for the placement of the protected consumer
7 security freeze by any of the following methods:**

**8 (a) In writing, where delivery by standard U.S. Postal Service mail service shall be
9 sufficient; or**

**10 (b) By other reliable means, including, but not limited to, internet, telephone,
11 facsimile, or other electronic means if any such other means are provided by the consumer
12 credit reporting agency;**

13 (2) The protected consumer's representative does all of the following:

14 **(a) Submits the request to the consumer credit reporting agency at the address or**
15 **other point of contact and in the manner specified by the consumer credit reporting**
16 **agency;**

17 **(b) Provides to the consumer credit reporting agency sufficient proof of**
18 **identification for both the protected consumer and the representative; and**

19 **(c) Provides to the consumer credit reporting agency sufficient proof of authority**
20 **to act on behalf of the protected consumer.**

21 **2. If the placement of a protected consumer security freeze is required under**
22 **subsection 1 of this section, a consumer credit reporting agency shall do one of the**
23 **following, as applicable:**

24 **(1) If the consumer credit reporting agency does not have a credit report pertaining**
25 **to the protected consumer, the consumer credit reporting agency shall create a protected**
26 **consumer's file and place a restriction in the protected consumer's file that prohibits the**
27 **release of the protected consumer's file, any credit report subsequently created for the**
28 **consumer and any information contained in either document except as provided in this**
29 **section;**

30 **(2) If the consumer credit reporting agency has a credit report pertaining to the**
31 **protected consumer, the consumer credit reporting agency shall place a restriction on the**
32 **report that prohibits the release of the credit report and any information contained in the**
33 **report except as provided in this section.**

34 **3. A protected consumer security freeze shall remain in effect until one of the**
35 **following occurs, in which case the protected consumer security freeze shall be removed**
36 **within thirty days:**

37 **(1) The protected consumer or the protected consumer's representative requests**
38 **the consumer credit reporting agency to remove the protected consumer security freeze by**
39 **doing all of the following:**

40 **(a) Submitting a request for the removal of the protected consumer security freeze**
41 **to the consumer credit reporting agency at the address or other point of contact and in the**
42 **manner specified by the consumer credit reporting agency;**

43 **(b) If the request is being made by the protected consumer, providing to the**
44 **consumer credit reporting agency:**

45 **a. Proof that the sufficient proof of authority for the protected consumer's**
46 **representative is no longer valid; and**

47 **b. Sufficient proof of identification for the protected consumer; and**

48 **(c) If the request is being made by the representative of a protected consumer,**
49 **providing to the consumer credit reporting agency:**

50 **a. Sufficient proof of identification of the protected consumer and the**
51 **representative; and**

52 **b. Sufficient proof of authority to act on behalf of the protected consumer;**

53 **(2) The consumer credit reporting agency determines that the protected consumer**
54 **security freeze was placed based on a material misrepresentation of fact by the protected**
55 **consumer or the protected consumer's representative.**

56 **4. The provisions of this section shall not apply to the use of a consumer credit**
57 **report by any of the following:**

58 **(1) A person or the person's subsidiary, affiliate, agent, subcontractor, or assignee**
59 **with whom the consumer has, or prior to the assignment had, an account, contract, or**
60 **debtor-creditor relationship for the purposes of reviewing the active account or collecting**
61 **the financial obligation owing for the account, contract, or debt;**

62 **(2) Any person acting under a court order, warrant, or subpoena;**

63 **(3) A state or local agency, or its agents or assigns, that administers a program for**
64 **establishing and enforcing child support obligations;**

65 **(4) A state or local agency, or its agents or assigns, acting to investigate fraud,**
66 **including Medicaid fraud, or acting to investigate or collect delinquent taxes or**
67 **assessments, including interests and penalties, unpaid court costs, or to fulfill any of its**
68 **statutory responsibilities;**

69 **(5) A federal, state, or local governmental entity, including a law enforcement**
70 **agency, court, or its agent or assigns;**

71 **(6) A person for the purposes of prescreening as defined by the Fair Credit**
72 **Reporting Act, 15 U.S.C. Section 1681, et seq;**

73 **(7) Any person for the sole purpose of providing for a credit file monitoring**
74 **subscription service to which the protected consumer has subscribed or the representative**
75 **of the protected consumer has subscribed on behalf of the protected consumer;**

76 **(8) A consumer credit reporting agency for the purpose of providing a protected**
77 **consumer or representative of a protected consumer with a copy of the protected**
78 **consumer's credit report upon the request of the protected consumer or the protected**
79 **consumer's representative;**

80 **(9) Any depository financial institution for checking, savings, and investment**
81 **accounts;**

82 **(10) Any property and casualty insurance company for use in setting or adjusting**
83 **a rate, adjusting a claim, or underwriting for property and casualty insurance purposes;**

84 **(11) A person for the purpose of furnishing or using credit reports for employment**
85 **purposes under 15 U.S.C. Section 1681b(b) or tenant screening under 15 U.S.C. Section**
86 **1681b(a)(3)(F);**

87 **(12) A person for the purpose of criminal background record information.**

88 **5. The following persons are not required to place a security freeze on a credit**
89 **report under this section; provided, however, that any person that is not required to place**
90 **a security freeze on a credit report under the provisions of subdivision (3) of this subsection**
91 **shall be subject to any security freeze placed on a credit report by another consumer credit**
92 **reporting agency from which it obtains information:**

93 **(1) A check services or fraud prevention services company, which reports on**
94 **incidents of fraud or issues authorizations for the purpose of approving or processing**
95 **negotiable instruments, electronic fund transfers, or similar methods of payment;**

96 **(2) A deposit account information service company, which issues reports regarding**
97 **account closures due to fraud, substantial overdrafts, automated teller machine abuse, or**
98 **other similar negative information regarding a consumer to inquiring banks or other**
99 **financial institutions for use only in reviewing a consumer request for a deposit account**
100 **at the inquiring bank or financial institution;**

101 **(3) A consumer credit reporting agency that does all of the following:**

102 **(a) Acts only to resell credit information by assembling and merging information**
103 **contained in a database of one or more credit reporting agencies; and**

104 **(b) Does not maintain a permanent database of credit information from which new**
105 **credit reports are produced;**

106 **(4) A consumer credit reporting agency that maintains a database or file that**
107 **consists of information used for any of the following purposes but that is not used for credit**
108 **granting purposes:**

109 **(a) Reporting of criminal record information;**

110 **(b) Fraud prevention or detection;**

111 **(c) Reporting personal loss history information; or**

112 **(d) Employment, tenant, or other background screening.**

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