

SECOND REGULAR SESSION

HOUSE BILL NO. 2136

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WRIGHT-JONES.

Read 1st time March 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5712L.01I

AN ACT

To amend chapter 407, RSMo, by adding thereto seven new sections relating to identity theft protection.

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

Section A. Chapter 407, RSMo, is amended by adding thereto seven new sections, to
2 be known as sections 407.1400, 407.1404, 407.1406, 407.1408, 407.1414, 407.1428, and
3 407.1430, to read as follows:

407.1400. Sections 407.1400 to 407.1430 shall be known and may be cited as the
2 **"Identity Theft Prevention Act".**

407.1404. As used in sections 407.1400 to 407.1430, the following terms shall mean:

2 (1) **"Consumer", an individual;**

3 (2) **"Consumer report" any written, oral, or other communication of any**
4 **information by a consumer reporting agency bearing on a consumer's credit worthiness,**
5 **credit standing, credit capacity, character, general reputation, personal characteristics, or**
6 **mode of living which is used or expected to be used or collected in whole or in part for the**
7 **purpose of serving as a factor in establishing the consumer's eligibility for:**

8 (a) **Credit or insurance to be used primarily for personal, family, or household**
9 **purposes;**

10 (b) **Employment purposes; or**

11 (c) **Any other purpose authorized under sections 407.1400 to 407.1430;**

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.

12 (3) "Consumer reporting agency" any person which, for monetary fees, dues, or
13 on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of
14 assembling or evaluating consumer credit information or other information on consumers
15 for the purpose of furnishing consumer reports to third parties, and which uses any means
16 or facility for the purpose of preparing or furnishing consumer reports;

17 (4) "Employment purposes" when used in connection with a consumer report, a
18 report used for the purpose of evaluating a consumer for employment, promotion,
19 reassignment, or retention as an employee;

20 (5) "File" when used in connection with information on any consumer, all of the
21 information on that consumer recorded and retained by a consumer reporting agency
22 regardless of how the information is stored;

23 (6) "Security freeze", a notice placed in a consumer's consumer report, at the
24 request of the consumer and subject to certain exceptions, that prohibits the consumer
25 reporting agency from releasing the report or any information from it without the express
26 authorization of the consumer, but does not prevent a consumer reporting agency from
27 advising a third party that a security freeze is in effect with respect to the consumer report.

 407.1406. 1. A consumer may elect to place a security freeze on his or her consumer
2 report by:

3 (1) Making a request in writing by certified mail or overnight mail to a consumer
4 reporting agency; or

5 (2) Making a request directly to the consumer reporting agency through a secure
6 electronic mail connection, if an electronic mail connection is provided by the consumer
7 reporting agency.

8 2. A consumer reporting agency shall place a security freeze on a consumer report
9 no later than five business days after receiving a written request from the consumer.

10 3. The consumer reporting agency shall send a written confirmation of the security
11 freeze to the consumer within five business days of placing the freeze and at the same time
12 shall provide the consumer with a unique personal identification number or password to
13 be used by the consumer when providing authorization for the release of his or her credit
14 for a specific party or period of time.

15 4. If the consumer wishes to allow his or her consumer report to be accessed by a
16 specific party or for a specific period of time while a freeze is in place, he or she shall
17 contact the consumer reporting agency via certified or overnight mail or secure electronic
18 mail and request that the freeze be temporarily lifted, and provide all of the following:

19 (1) Information generally deemed sufficient to identify a person;

20 (2) The unique personal identification number or password provided by the
21 consumer reporting agency under subsection 3 of this section; and

22 (3) The proper information regarding the third party who is to receive the
23 consumer report or the time period for which the consumer report shall be available to
24 users of the consumer report.

25 5. A consumer reporting agency that receives a request from a consumer to
26 temporarily lift a freeze on a consumer report under subsection 4 of this section shall
27 comply with the request no later than three business days after receiving the request.

28 6. A consumer reporting agency shall develop procedures involving the use of
29 telephone, fax, the Internet, or other electronic media to receive and process a request from
30 a consumer to temporarily lift a freeze on a consumer report under subsection 4 of this
31 section in an expedited manner. The attorney general shall promulgate regulations
32 necessary to allow the use of electronic media to receive and process a request from a
33 consumer to temporarily lift a security freeze under subsection 4 of this section as quickly
34 as possible, with the goal of processing a request within fifteen minutes of that request.

35 7. A consumer reporting agency shall remove or temporarily lift a freeze placed on
36 a consumer report only in the following cases:

37 (1) Upon consumer request under subsection 4 or 10 of this section;

38 (2) If the consumer report was frozen due to a material misrepresentation of fact
39 by the consumer. If a consumer reporting agency intends to remove a freeze upon a
40 consumer report under this subdivision, the consumer reporting agency shall notify the
41 consumer in writing at least five business days prior to removing the freeze on the
42 consumer report.

43 8. If a third party requests access to a consumer report on which a security freeze
44 is in effect, and this request is in connection with an application for credit or any other use,
45 and the consumer does not allow his or her consumer report to be accessed for that specific
46 party or period of time, the third party may treat the application as incomplete.

47 9. (1) At any time that a consumer is required to receive a summary of rights
48 required under section 609 of the federal Fair Credit Reporting Act 15 U.S.C. s. 1681g, the
49 following notice shall be included:

50 Missouri Consumers Have the Right to Obtain a Security Freeze

51 You may obtain a security freeze on your credit report to protect your privacy and
52 ensure that credit is not granted in your name without your knowledge. You have a right
53 to place a security freeze on your credit report under Missouri law. The security freeze
54 will prohibit a consumer reporting agency from releasing any information in your credit
55 report without your express authorization or approval. The security freeze is designed to

56 prevent credit, loans, and services from being approved in your name without your
57 consent. When you place a security freeze on your credit report, within five business days
58 you will be provided a personal identification number or password to use if you choose to
59 remove the freeze on your credit report or to temporarily authorize the release of your
60 credit report for a specific party, parties, or period of time after the freeze is in place. To
61 provide that authorization, you must contact the consumer reporting agency and provide
62 all of the following:

63 (1) The unique personal identification number or password provided by the
64 consumer reporting agency;

65 (2) Proper identification to verify your identity;

66 (3) The proper information regarding the third party or parties who are to receive
67 the credit report or the period of time for which the report shall be available to users of the
68 credit report.

69 A security freeze does not apply to circumstances in which you have an existing
70 account relationship and a copy of your report is requested by your existing creditor or its
71 agents or affiliates for certain types of account review, collection, fraud control, or similar
72 activities.

73 If you are actively seeking credit, you should understand that the procedures
74 involved in lifting a security freeze may slow your own applications for credit. You should
75 plan ahead and lift a freeze, either completely if you are shopping around, or specifically
76 for a certain creditor, a few days before actually applying for new credit.

77 You have a right to bring a civil action against someone who violates your rights
78 under the credit reporting laws. The action can be brought against a consumer reporting
79 agency or a user of your credit report.

80 (2) If a consumer requests information about a security freeze, he or she shall be
81 provided with the notice provided in subdivision (1) of subsection 9 of this section and with
82 any other information, as prescribed by the attorney general by regulation, about how to
83 place, temporarily lift, and permanently lift a security freeze.

84 10. A security freeze shall remain in place until the consumer requests that the
85 security freeze be removed. A consumer reporting agency shall remove a security freeze
86 within three business days of receiving a request for removal from the consumer, who
87 provides the following:

88 (1) Proper identification; and

89 (2) The unique personal identification number or password provided by the
90 consumer reporting agency under subsection 3 of this section.

91 **11. A consumer reporting agency shall require proper identification of the person**
92 **making a request to place or remove a security freeze.**

93 **12. The provisions of this section do not apply to the use of a consumer report by**
94 **the following:**

95 **(1) Any state or local agency, law enforcement agency, trial court, or private**
96 **collection agency acting under a court order, warrant, or subpoena;**

97 **(2) The department of revenue for the purpose of enforcing the tax laws of this**
98 **state;**

99 **(3) A state or local child support enforcement agency;**

100 **(4) Any person or entity administering a credit file monitoring subscription service**
101 **to which the consumer has subscribed; or**

102 **(5) Any person or entity for the purpose of providing a consumer with a copy of the**
103 **consumer's credit report upon the consumer's request.**

104 **13. (1) A consumer reporting agency shall not charge a consumer any fee to place**
105 **a security freeze on that consumer's consumer report;**

106 **(2) A consumer reporting agency may charge a reasonable fee, not to exceed five**
107 **dollars to a consumer who elects to remove or temporarily lift a security freeze on that**
108 **consumer's report;**

109 **(3) A consumer may be charged a reasonable fee, not to exceed five dollars, if the**
110 **consumer fails to retain the original personal identification number provided by the**
111 **consumer reporting agency and must be reissued the same or a new personal identification**
112 **number.**

407.1408. If a security freeze is in place, a consumer reporting agency shall not
2 **change any of the following official information in a consumer report without sending a**
3 **written confirmation of the change to the consumer within thirty days of the change being**
4 **posted to the consumer's file: name; date of birth; Social Security number; or address.**
5 **Written confirmation is not required for technical modifications of a consumer's official**
6 **information, including name and street abbreviations, complete spellings, or transposition**
7 **of numbers or letters. In the case of an address change, the written confirmation shall be**
8 **sent to both the new address and to the former address.**

407.1414. 1. Any person who willfully fails to comply with the requirements of
2 **sections 407.1404 to 407.1414 shall be liable to a consumer as provided in section 407.1428.**

3 **2. Any person who is negligent in failing to comply with the requirements of**
4 **sections 407.1404 to 407.1414 shall be liable to a consumer as provided in section 407.1430.**

2 **407.1428. Any person who willfully fails to comply with any requirement imposed**
3 **under sections 407.1400 to 407.1430 with respect to any consumer is liable to that consumer**
4 **in an amount equal to the sum of:**

5 **(1) Any actual damages sustained by the consumer as a result of the failure; and**

6 **(2) Such amount of punitive damages as the court may allow; and**

7 **(3) In the case of any successful action to enforce any liability under this section,**
8 **the costs of the action together with reasonable attorneys' fees as determined by the court.**

9 **407.1430. Any person who is negligent in failing to comply with any requirement**
10 **imposed under sections 407.1400 to 407.1430 with respect to any consumer is liable to that**
11 **consumer in an amount equal to the sum of:**

12 **(1) Any actual damages sustained by the consumer as a result of the failure; and**

13 **(2) In the case of any successful action to enforce any liability under this section,**
14 **the costs of the action together with any reasonable attorneys' fees as determined by the**
15 **court.**

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