

FIRST REGULAR SESSION

HOUSE BILL NO. 377

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor),
MOORE AND MEINERS (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

0680L.01I

AN ACT

To amend chapter 407, RSMo, by adding thereto eight new sections relating to release of personal information to unauthorized persons, with penalty provisions for a certain section.

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

Section A. Chapter 407, RSMo, is amended by adding thereto eight new sections, to be
2 known as sections 407.1432, 407.1434, 407.1436, 407.1438, 407.1440, 407.1442, 407.1444, and
3 407.1446, to read as follows:

407.1432. 1. Except as otherwise allowed by state or federal law, or unless consent
2 has been provided as it is established in this section, financial institutions, their officers,
3 employees, agents, and directors shall not disclose to any person any financial information
4 relating to a customer.

5 2. A governmental agency or law enforcement agency may obtain customer
6 information from a financial institution under a judicial or administrative subpoena duces
7 tecum served on the financial institution, if there is reason to believe that the customer
8 information sought is relevant to a proper law enforcement objective or is otherwise
9 authorized by law.

10 3. A governmental agency or law enforcement agency may obtain customer
11 information from a financial institution under a search warrant if it obtains the search
12 warrant under the rules of criminal procedure of this state.

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.

13 **4. No consent or waiver shall be required as a condition of doing business with any**
14 **financial institution, and any consent or waiver obtained from a customer as a condition**
15 **of doing business with a financial institution shall not be deemed a consent of the customer**
16 **for the purpose of this section.**

17 **5. Valid consent shall be in writing and signed by the customer. In consenting to**
18 **disclosure of customer information, a customer may specify any of the following:**

19 **(1) The time during which such consent will operate;**

20 **(2) The customer information to be disclosed; and**

21 **(3) The persons, government agencies, or law enforcement agencies to which**
22 **disclosure can be made.**

407.1434. 1. Any person or business that conducts business in this state and that
2 **owns or licenses computerized data that includes personal information, shall disclose any**
3 **breach of the security of the system following discovery or notification of the breach.**
4 **Notification shall be made to any resident of the state whose encrypted personal**
5 **information was, or is reasonably believed to have been, acquired by an unauthorized**
6 **person. The disclosure shall be made in the most expedient time possible, but no more than**
7 **thirty days after such breach has been discovered.**

8 **2. The notification required by this section may be delayed if a law enforcement**
9 **agency determines that the notification will impede a criminal investigation.**

10 **3. For purposes of this section, "breach of security of the system" shall mean**
11 **unauthorized acquisition of computerized data that compromises the security,**
12 **confidentiality, or integrity of personal information maintained by the business or person.**
13 **Good faith acquisition of personal information by an employee or agent of the business for**
14 **the purposes of the business shall not be considered a breach of security of the system,**
15 **provided that the personal information is not used or subject to further unauthorized**
16 **disclosure.**

17 **4. For purposes of this section, "personal information" means an individual's first**
18 **name or first initial and last name in combination with any one or more of the following**
19 **data elements, when either the name or the data elements are not encrypted:**

20 **(1) Social Security number;**

21 **(2) Driver's license number;**

22 **(3) Account number, credit card number, or debit card number, in combination**
23 **with any required security code, access code, or password that would permit access to an**
24 **individual's financial account.**

25

26 For purposes of this section, "personal information" does not include publicly available
27 information that is lawfully made available to the general public from federal, state, or
28 local government records.

29 5. For purposes of this section, "notice" may be provided by one of the following
30 methods:

31 (1) Written notice;

32 (2) Electronic notice, if the notice provided is consistent with the provisions
33 regarding electronic records and signatures set forth in Section 7001 of Title 15 of the
34 United States Code;

35 (3) Substitute notice, if the agency demonstrates that the cost of providing notice
36 would exceed two hundred fifty thousand dollars, that the affected class of subject persons
37 to be notified exceeds five hundred thousand, or the agency does not have sufficient contact
38 information. Substitute notice shall consist of all of the following:

39 (a) E-mail notice when the agency has an e-mail address for the subject persons;

40 (b) Conspicuous posting of the notice on the agency's website, if the agency
41 maintains one; and

42 (c) Notification to major statewide media.

43 6. Notwithstanding subsection 5 of this section, an agency that maintains its own
44 notification procedures as part of an information security policy for the treatment of
45 personal information and is otherwise consistent with the timing requirements of this part
46 shall be deemed to be in compliance with the notification requirements of this section if it
47 notifies subject persons in accordance with its policies in the event of a breach of security
48 of the system.

49 7. Any person or business who violates the provisions of this section shall be guilty
50 of a class A misdemeanor and, upon conviction, shall be punished by a fine of up to one
51 thousand dollars for each and every act or violation, by imprisonment in the county jail for
52 a term not to exceed one year, or by both at the discretion of the court.

407.1436. 1. A consumer may elect to place a security alert in his or her credit
2 report by making a request in writing or by telephone to a consumer credit reporting
3 agency. "Security alert" means a notice placed in a consumer's credit report, at the
4 request of the consumer, that notifies a recipient of the credit report that the consumer's
5 identity may have been used without the consumer's consent to fraudulently obtain goods
6 or services in the consumer's name.

7 2. A consumer credit reporting agency shall notify each person requesting
8 consumer credit information with respect to a consumer of the existence of a security alert

9 in the credit report of that consumer, regardless of whether a full credit report, credit
10 score, or summary report is requested.

11 3. Each consumer credit reporting agency shall maintain a toll-free telephone
12 number to accept security alert requests from consumers twenty-four hours a day, seven
13 days a week.

14 4. The toll-free telephone number shall be included in any written disclosure by a
15 consumer credit reporting agency to any consumer under section 407.1446 and shall be
16 printed in a clear and conspicuous manner.

17 5. A consumer credit reporting agency shall place a security alert on a consumer's
18 credit report no later than five business days after receiving a request from the consumer.

19 6. The security alert shall remain in place for at least ninety days, and a consumer
20 shall have the right to request a renewal of the security alert.

407.1438. 1. A consumer may elect to place a security freeze on his or her credit
2 report by making a request in writing by certified mail to a consumer credit reporting
3 agency. "Security freeze" means a notice placed in a consumer's credit report, at the
4 request of the consumer and subject to certain exceptions, that prohibits the consumer
5 credit reporting agency from releasing the consumer's credit report or any information
6 from it without the express authorization of the consumer. If a security freeze is in place,
7 information from a consumer's credit report may not be released to a third party without
8 prior express authorization from the consumer. This subsection does not prevent a
9 consumer credit reporting agency from advising a third party that a security freeze is in
10 effect with respect to the consumer's credit report.

11 2. A consumer credit reporting agency shall place a security freeze on a consumer's
12 credit report no later than five business days after receiving a written request from the
13 consumer.

14 3. The consumer credit reporting agency shall send a written confirmation of the
15 security freeze to the consumer within ten business days and shall provide the consumer
16 with a unique personal identification number or password to be used by the consumer
17 when providing authorization for the release of his or her credit for a specific party or
18 period of time.

19 4. If the consumer wishes to allow his or her credit report to be accessed for a
20 specific party or period of time while a freeze is in place, he or she shall contact the
21 consumer credit reporting agency, request that the freeze be temporarily lifted, and
22 provide the following:

23 (1) Proper identification, as defined in subsection 3 of section 407.1446.

24 (2) The unique personal identification number or password provided by the credit
25 reporting agency under subsection 3 of this section.

26 (3) The proper information regarding the third party who is to receive the credit
27 report or the time period for which the report shall be available to users of the credit
28 report.

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

32 6. A consumer credit reporting agency may develop procedures involving the use
33 of telephone, fax, the Internet, or other electronic media to receive and process a request
34 from a consumer to temporarily lift a freeze on a credit report under subsection 4 of this
35 section in an expedited manner.

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

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

39 (2) If the consumer's credit report was frozen due to a material misrepresentation
40 of fact by the consumer. If a consumer credit reporting agency intends to remove a freeze
41 upon a consumer's credit report under this subdivision, the consumer credit reporting
42 agency shall notify the consumer in writing prior to removing the freeze on the consumer's
43 credit report.

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

48 9. If a consumer requests a security freeze, the consumer credit reporting agency
49 shall disclose the process of placing and temporarily lifting a freeze, and the process for
50 allowing access to information from the consumer's credit report for a specific party or
51 period of time while the freeze is in place.

52 10. A security freeze shall remain in place until the consumer requests that the
53 security freeze be removed. A consumer credit reporting agency shall remove a security
54 freeze within three business days of receiving a request for removal from the consumer,
55 who provides both of the following:

56 (1) Proper identification, as defined in subsection 3 of section 407.1446;

57 (2) The unique personal identification number or password provided by the credit
58 reporting agency under subsection 3 of this section.

59 **11. A consumer credit reporting agency shall require proper identification, as**
60 **defined in subsection 3 of section 407.1446, of the person making a request to place or**
61 **remove a security freeze.**

62 **12. The provisions of this section do not apply to the use of a consumer credit**
63 **report by any of the following:**

64 **(1) A person or entity, or a subsidiary, affiliate, or agent of that person or entity,**
65 **or an assignee of a financial obligation owing by the consumer to that person or entity, or**
66 **a prospective assignee of a financial obligation owing by the consumer to that person or**
67 **entity in conjunction with the proposed purchase of the financial obligation, with which**
68 **the consumer has or had prior to assignment an account or contract, including a demand**
69 **deposit account, or to whom the consumer issued a negotiable instrument, for the purposes**
70 **of reviewing the account or collecting the financial obligation owing for the account,**
71 **contract, or negotiable instrument. For purposes of this subdivision, "reviewing the**
72 **account" includes activities related to account maintenance, monitoring, credit line**
73 **increases, and account upgrades and enhancements;**

74 **(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to**
75 **whom access has been granted under subdivision (2) of subsection 4 of this section for**
76 **purposes of facilitating the extension of credit or other permissible use;**

77 **(3) Any state or local agency, law enforcement agency, trial court, or private**
78 **collection agency acting pursuant to a court order, warrant, or subpoena;**

79 **(4) A child support agency;**

80 **(5) The department of health and senior services or its agents or assigns acting to**
81 **investigate Medicaid fraud;**

82 **(6) The state tax commission or its agents or assigns acting to investigate or collect**
83 **delinquent taxes or unpaid court orders or to fulfill any of its other statutory**
84 **responsibilities;**

85 **(7) The use of credit information for the purposes of prescreening as provided for**
86 **by the federal Fair Credit Reporting Act;**

87 **(8) Any person or entity administering a credit file monitoring subscription service**
88 **to which the consumer has subscribed;**

89 **(9) Any person or entity for the purpose of providing a consumer with a copy of his**
90 **or her credit report upon the consumer's request.**

91 **13. Sections 407.1432 to 407.1446 do not prevent a consumer credit reporting**
92 **agency from charging a fee of no more than ten dollars to a consumer for each freeze,**
93 **removal of the freeze, or temporary lift of the freeze for a period of time, or a fee of no**
94 **more than twelve dollars for a temporary lift of a freeze for a specific party, regarding**

95 access to a consumer credit report, except that a consumer credit reporting agency may not
96 charge a fee to a victim of identity theft who has submitted a valid police report.

407.1440. 1. If a security freeze is in place, a consumer credit reporting agency
2 shall not change any of the following official information in a consumer credit report
3 without sending a written confirmation of the change to the consumer within thirty days
4 of the change being posted to the consumer's file: name, date of birth, Social Security
5 number, and address. Written confirmation is not required for technical modifications of
6 a consumer's official information, including name and street abbreviations, complete
7 spellings, or transposition of numbers or letters. In the case of an address change, the
8 written confirmation shall be sent to both the new address and to the former address.

9 2. If a consumer has placed a security alert, a consumer credit reporting agency
10 shall provide the consumer, upon request, with a free copy of his or her credit report at the
11 time the ninety-day security alert period expires.

407.1442. The provisions of sections 407.1436 to 407.1440 do not apply to a
2 consumer credit reporting agency that acts only as a reseller of credit information by
3 assembling and merging information contained in the data base of another consumer credit
4 reporting agency or multiple consumer credit reporting agencies, and does not maintain
5 a permanent data base of credit information from which new consumer credit reports are
6 produced. However, a consumer credit reporting agency shall honor any security freeze
7 placed on a consumer credit report by another consumer credit reporting agency.

407.1444. The following entities are not required to place in a credit report either
2 a security alert, under section 407.1436, or a security freeze, under section 407.1438:

3 (1) A check services or fraud prevention services company, which issues reports on
4 incidents of fraud or authorizations for the purpose of approving or processing negotiable
5 instruments, electronic funds transfers, or similar methods of payments;

6 (2) A deposit account information service company, which issues reports regarding
7 account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative
8 information regarding a consumer, to inquiring banks or other financial institutions for
9 use only in reviewing a consumer request for a deposit account at the inquiring bank or
10 financial institution.

407.1446. A consumer credit reporting agency shall supply files and information
2 required during normal business hours and on reasonable notice. In addition to the
3 disclosure provided by this chapter and any disclosures received by the consumer, the
4 consumer has the right to request and receive all of the following:

5 (1) Either a decoded written version of the file or a written copy of the file,
6 including all information in the file at the time of the request, with an explanation of any
7 code used;

8 (2) A credit score for the consumer, the key factors, and the related information,
9 as defined in and required by this subsection;

10 (3) A record of all inquiries, by recipient, which result in the provision of
11 information concerning the consumer in connection with a credit transaction that is not
12 initiated by the consumer and which were received by the consumer credit reporting
13 agency in the twelve-month period immediately preceding the request for disclosure under
14 this section;

15 (4) The recipients, including end users of any consumer credit report on the
16 consumer which the consumer credit reporting agency has furnished:

17 (a) For employment purposes within the two-year period preceding the request;

18 (b) For any other purpose within the twelve-month period preceding the request.

19

20 Identification for purposes of this subdivision shall include the name of the recipient or,
21 if applicable, the fictitious business name under which the recipient does business disclosed
22 in full. If requested by the consumer, the identification shall also include the address of the
23 recipient.

24 (5) Files maintained on a consumer shall be disclosed promptly as follows:

25 (a) In person, at the location where the consumer credit reporting agency maintains
26 the trained personnel required by this subdivision, if he or she appears in person and
27 furnishes proper identification;

28 (b) By mail, if the consumer makes a written request with proper identification for
29 a copy of the file or a decoded written version of that file to be sent to the consumer at a
30 specified address. A disclosure under this subdivision shall be deposited in the United
31 States mail, postage prepaid, within five business days after the consumer's written request
32 for the disclosure is received by the consumer credit reporting agency. Consumer credit
33 reporting agencies complying with requests for mailings under this section shall not be
34 liable for disclosures to third parties caused by mishandling of mail after the mailings leave
35 the consumer credit reporting agencies;

36 (c) A summary of all information contained in files on a consumer and required to
37 be provided shall be provided by telephone, if the consumer has made a written request,
38 with proper identification for telephone disclosure;

39 (d) Information in a consumer's file required to be provided in writing under this
40 section may also be disclosed in another form if authorized by the consumer and if

41 available from the consumer credit reporting agency. For this purpose a consumer may
42 request disclosure in person by telephone upon disclosure of proper identification by the
43 consumer, by electronic means if available from the consumer credit reporting agency, or
44 by any other reasonable means that is available from the consumer credit reporting
45 agency.

46 (6) "Proper identification," as used in this section means that information generally
47 deemed sufficient to identify a person. Only if the consumer is unable to reasonably
48 identify himself or herself with the information described above, may a consumer credit
49 reporting agency require additional information concerning the consumer's employment
50 and personal or family history in order to verify his or her identity;

51 (7) The consumer credit reporting agency shall provide trained personnel to
52 explain to the consumer any information furnished him or her;

53 (8) The consumer shall be permitted to be accompanied by one other person of his
54 or her choosing, who shall furnish reasonable identification. A consumer credit reporting
55 agency may require the consumer to furnish a written statement granting permission to
56 the consumer credit reporting agency to discuss the consumer's file in that person's
57 presence;

58 (9) Any written disclosure by a consumer credit reporting agency to any consumer
59 under this section shall include a written summary of all rights the consumer has under
60 this title and in the case of a consumer credit reporting agency which compiles and
61 maintains consumer credit reports on a nationwide basis, a toll-free telephone number
62 which the consumer can use to communicate with the consumer credit reporting agency.
63 The written summary of rights required under this subdivision is sufficient if in
64 substantially the following form:

65 "You have a right to obtain a copy of your credit file from a
66 consumer credit reporting agency. You may be charged a reasonable fee not
67 exceeding eight dollars (\$8). There is no fee, however, if you have been
68 turned down for credit, employment, insurance, or a rental dwelling because
69 of information in your credit report within the preceding 60 days. The
70 consumer credit reporting agency must provide someone to help you
71 interpret the information in your credit file.

72 You have a right to dispute inaccurate information by contacting the
73 consumer credit reporting agency directly. However, neither you nor any
74 credit repair company or credit service organization has the right to have
75 accurate, current, and verifiable information removed from your credit
76 report. Under the Federal Fair Credit Reporting Act, the consumer credit

77 reporting agency must remove accurate, negative information from your
78 report only if it is over seven years old. Bankruptcy information can be
79 reported for 10 years.

80 If you have notified a consumer credit reporting agency in writing
81 that you dispute the accuracy of information in your file, the consumer
82 credit reporting agency must then, within 30 business days, reinvestigate
83 and modify or remove inaccurate information. The consumer credit
84 reporting agency may not charge a fee for this service. Any pertinent
85 information and copies of all documents you have concerning an error
86 should be given to the consumer credit reporting agency.

87 If reinvestigation does not resolve the dispute to your satisfaction,
88 you may send a brief statement to the consumer credit reporting agency to
89 keep in your file, explaining why you think the record is inaccurate. The
90 consumer credit reporting agency must include your statement about
91 disputed information in a report it issues about you.

92 You have a right to receive a record of all inquiries relating to a
93 credit transaction initiated in 12 months preceding your request. This
94 record shall include the recipients of any consumer credit report.

95 You may request in writing that the information contained in your
96 file not be provided to a third party for marketing purposes. You have a
97 right to place a "security alert" in your credit report, which will warn
98 anyone who receives information in your credit report that your identity
99 may have been used without your consent. Recipients of your credit report
100 are required to take reasonable steps, including contacting you at the
101 telephone number you may provide with your security alert, to verify your
102 identity prior to lending money, extending credit, or completing the
103 purchase, lease, or rental of goods or services. The security alert may
104 prevent credit, loans, and services from being approved in your name
105 without your consent. However, you should be aware that taking advantage
106 of this right may delay or interfere with the timely approval of any
107 subsequent request or application you make regarding a new loan, credit,
108 mortgage, insurance, rental housing, employment, investment, license,
109 cellular phone, utilities, digital signature, Internet credit card transaction,
110 or other services, including an extension of credit at point of sale. If you
111 place a security alert on your credit report, you have a right to obtain a free
112 copy of your credit report at the time the 90-day security alert period

113 expires. A security alert may be requested by calling the following toll-free
114 telephone number: (Insert applicable toll-free telephone number).

115 You have a right to place a "security freeze" on your credit report,
116 which will prohibit a consumer credit reporting agency from releasing any
117 information in your credit report without your express authorization. A
118 security freeze must be requested in writing by certified mail. The security
119 freeze is designed to prevent credit, loans, and services from being approved
120 in your name without your consent. However, you should be aware that
121 using a security freeze to take control over who gets access to the personal
122 and financial information in your credit report may delay, interfere with, or
123 prohibit the timely approval of any subsequent request or application you
124 make regarding a new loan, credit, mortgage, insurance, government
125 services or payments, rental housing, employment, investment, license,
126 cellular phone, utilities, digital signature, Internet credit card transaction,
127 or other services, including an extension of credit at point of sale. When you
128 place a security freeze on your credit report, you will be provided a personal
129 identification number or password to use if you choose to remove the freeze
130 on your credit report or authorize the release of your credit report for a
131 specific party or period of time after the freeze is in place. To provide that
132 authorization you must contact the consumer credit reporting agency and
133 provide all of the following:

- 134 (1) The personal identification number or password.
135 (2) Proper identification to verify your identity.
136 (3) The proper information regarding the third party who is to
137 receive the credit report or the period of time for which the report shall be
138 available.

139 A consumer credit reporting agency must authorize the release of
140 your credit report no later than three business days after receiving the above
141 information.

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

148 **You have a right to bring civil action against anyone, including a**
149 **consumer credit reporting agency, who improperly obtains access to a file,**
150 **knowingly or willfully misuses file data, or fails to correct inaccurate file**
151 **data.".**

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