

SECOND REGULAR SESSION

# HOUSE BILL NO. 1964

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LeVOTA (Sponsor), PAGE, GRILL, LAMPE, SCAVUZZO,  
ROORDA, DARROUGH, SCHIEFFER, BAKER (25), HARRIS (110),  
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Read 1st time February 4, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3471L.02I

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### AN ACT

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

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*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 407.1430, 407.1434, 407.1436, 407.1438, 407.1444, 407.1448, and  
3 407.1450, to read as follows:

**407.1430. Sections 407.1430 to 407.1450 shall be known and may be cited as the**  
2 **"Identity Theft Prevention Act".**

**407.1434. As used in sections 407.1430 to 407.1450, 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

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.

11 (c) Any other purpose authorized under sections 407.1430 to 407.1450 or 15 U.S.C.  
12 Section 1681(b);

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

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

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

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

407.1436. 1. A consumer may elect to place a security freeze on his or her consumer  
2 report by any of the following, at the option of the consumer:

3 (1) Making a request by mail; or

4 (2) Making a request by telephone by providing certain personal identification; or

5 (3) Making a request directly to a consumer reporting agency through a secure web  
6 site or secure electronic mail connection. Consumer reporting agencies shall make a secure  
7 web site or secure electronic mail method of requesting a security freeze available by the  
8 effective date of this section.

9 2. A consumer reporting agency shall place a security freeze on a consumer report  
10 no later than three business days after receiving a request from the consumer by mail.  
11 Requests by telephone, secure web site, or secure electronic mail shall be honored within  
12 fifteen minutes after the request has been completed beginning September 1, 2008.

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

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

- 23           **(1) Information generally deemed sufficient to identify a person;**  
24           **(2) The unique personal identification number or password provided by the**  
25 **consumer reporting agency under subsection 3 of this section; and**  
26           **(3) The proper information regarding the third party who is to receive the**  
27 **consumer report or the time period for which the consumer report shall be available to**  
28 **users of the consumer report.**

29           **5. A consumer reporting agency that receives a request from a consumer to**  
30 **temporarily lift a freeze on a consumer report under subsection 4 of this section shall**  
31 **comply with the request no later than three business days after receiving the request by**  
32 **mail or no later than fifteen minutes if after receiving the request by electronic mail or by**  
33 **telephone beginning September 1, 2008.**

34           **6. A consumer reporting agency shall develop procedures involving the use of**  
35 **telephone, fax, or, by a secure electronic connection or method to receive and process a**  
36 **request from a consumer to temporarily lift a freeze on a consumer report under**  
37 **subsection 4 of this section in an expedited manner.**

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

- 40           **(1) Upon consumer request under subsection 4 or 10 of this section;**  
41           **(2) If the consumer report was frozen due to a material misrepresentation of fact**  
42 **by the consumer. If a consumer reporting agency intends to remove a freeze upon a**  
43 **consumer report under this subdivision, the consumer reporting agency shall notify the**  
44 **consumer in writing at least five business days prior to removing the freeze on the**  
45 **consumer report.**

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

50           **9. (1) At any time that a consumer is required to receive a summary of rights**  
51 **required under section 609 of the federal Fair Credit Reporting Act 15 U.S.C. s. 1681g, the**  
52 **following notice shall be included:**

53           **Missouri Consumers Have the Right to Obtain a Security Freeze**

54           **You may obtain a security freeze on your credit report to protect your privacy and**  
55 **ensure that credit is not granted in your name without your knowledge. You have a right**  
56 **to place a security freeze on your credit report under Missouri law. The security freeze**  
57 **will prohibit a consumer reporting agency from releasing any information in your credit**  
58 **report without your express authorization or approval. The security freeze is designed to**  
59 **prevent credit, loans, and services from being approved in your name without your**  
60 **consent. When you place a security freeze on your credit report, within five business days**  
61 **you will be provided a personal identification number or password to use if you choose to**  
62 **remove the freeze on your credit report or to temporarily authorize the release of your**  
63 **credit report for a specific party, parties, or period of time after the freeze is in place. To**  
64 **provide that authorization, you must contact the consumer reporting agency and provide**  
65 **all of the following:**

66           **(1) The unique personal identification number or password provided by the**  
67 **consumer reporting agency;**

68           **(2) Proper identification to verify your identity;**

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

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

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

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

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

87           **10. A security freeze shall remain in place until the consumer requests that the**  
88 **security freeze be removed. A consumer reporting agency shall remove a security freeze**

89 within three business days of receiving a request for removal from the consumer, who  
90 provides the following:

91 (1) Proper identification; and

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

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

96 12. The provisions of this section do not apply to the use of a consumer report by  
97 the following:

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

100 (2) The department of revenue for the purpose of enforcing the tax laws of this  
101 state;

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

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

105 (5) Any person or entity for the purpose of providing a consumer with a copy of the  
106 consumer's credit report upon the consumer's request; or

107 (6) A person, or the person's subsidiary, affiliate, agent, or assignee with which the  
108 consumer has or, prior to assignment, had an account, contract, or debtor-creditor  
109 relationship for the purposes of reviewing the account or collecting the financial obligation  
110 owing for the account, contract, or debt; or

111 (7) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to  
112 whom access has been granted under subsection 4 of this section for purposes of facilitating  
113 the extension of credit or other permissible use; or

114 (8) A consumer reporting agency for its database or file that consists entirely of the  
115 following, and is used solely for one or more of the following: criminal record information,  
116 tenant screening, employment screening, or fraud prevention and detection; or

117 (9) A person for the purposes of prescreening as defined by the federal Fair Credit  
118 Reporting Act.

119 13. (1) A consumer reporting agency shall not charge a consumer any fee to place  
120 a security freeze on that consumer's consumer report.

121 (2) A consumer reporting agency may charge a reasonable fee, not to exceed five  
122 dollars to a consumer who elects to remove or temporarily lift a security freeze on that  
123 consumer's report.

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

**407.1438.** 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.

**407.1444.** 1. Any person who willfully fails to comply with the requirements of  
2 sections 407.1434 to 407.1444 shall be liable to a consumer as provided in section 407.1448.

3           2. Any person who is negligent in failing to comply with the requirements of  
4 sections 407.1434 to 407.1444 shall be liable to a consumer as provided in section 407.1450.

**407.1448.** Any person who willfully fails to comply with any requirement imposed  
2 under sections 407.1430 to 407.1450 with respect to any consumer is liable to that consumer  
3 in an amount equal to the sum of:

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

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

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

**407.1450.** Any person who is negligent in failing to comply with any requirement  
2 imposed under sections 407.1430 to 407.1450 with respect to any consumer is liable to that  
3 consumer in an amount equal to the sum of:

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

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

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