

SECOND REGULAR SESSION

# HOUSE BILL NO. 1385

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES COX (Sponsor), CUNNINGHAM (86), FISHER, SCHAAF, NOLTE, RUESTMAN, FUNDERBURK, BIVINS, MUNZLINGER AND SCHARNHORST (Co-sponsors).

Pre-filed December 11, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3561L.01I

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### AN ACT

To amend chapter 407, RSMo, by adding thereto eighteen new sections relating to security freezes.

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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 eighteen new sections, to  
2 be known as sections 407.1550, 407.1552, 407.1554, 407.1556, 407.1558, 407.1560, 407.1562,  
3 407.1564, 407.1566, 407.1568, 407.1570, 407.1572, 407.1574, 407.1576, 407.1578, 407.1580,  
4 407.1582, and 407.1584, to read as follows:

**407.1550. Sections 407.1550 to 407.1584 shall be known and may be cited as the**  
2 **"Consumer Report Security Freeze Act".**

**407.1552. For purposes of sections 407.1550 to 407.1584, the following words shall**  
2 **mean:**

3 (1) "Consumer", an individual;

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

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

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 (b) Employment purposes; or

12 (c) Any other purpose authorized under sections 407.1550 to 407.1584;

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

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

407.1554. A consumer may place a security freeze on his or her consumer report  
2 by:

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

4 (2) Including information that properly identifies the consumer;

5 (3) Paying a fee authorized under section 407.1576.

407.1556. A consumer reporting agency shall place a security freeze on a consumer  
2 report no later than five business days after receiving a request from the consumer.

407.1558. The consumer reporting agency shall send a written confirmation of the  
2 security freeze to the consumer within ten business days after instituting the security freeze  
3 and shall provide the consumer with a unique personal identification number or password  
4 to be used by the consumer when providing authorization for the removal of a security  
5 freeze on his or her consumer report under section 407.1560 or 407.1572.

407.1560. A consumer may allow his or her consumer report to be accessed for a  
2 designated period of time while a security freeze is in effect by contacting the consumer  
3 reporting agency and requesting that the freeze be temporarily lifted. The consumer shall  
4 provide the following information to the consumer reporting agency as part of the request:

5 (1) Proper identification as determined by the consumer reporting agency;

6 (2) The unique personal identification number or password provided by the  
7 consumer reporting agency under section 407.1558;

8 (3) Information specifying the period of time for which the report shall be made  
9 available;

10           (4) Payment of a fee authorized by section 407.1576.

**407.1562.** A consumer reporting agency that receives a request from a consumer  
2 to temporarily lift a freeze on a consumer report under section 407.1560 shall comply with  
3 the request no later than three business days after receiving the request.

**407.1564.** Beginning August 28, 2008, a consumer reporting agency doing business  
2 in this state shall select and develop a secure electronic contact method, which may include  
3 the use of telephone, fax, the Internet, or other secure electronic means, by which to receive  
4 and process requests from consumers to temporarily lift a freeze on a consumer report  
5 under section 407.1560.

**407.1566.** A consumer reporting agency shall temporarily lift or remove a security  
2 freeze placed on a consumer report only in the following instances:

3           (1) Upon consumer request, under section 407.1560 or 407.1572;

4           (2) If the consumer report was frozen due to a material misrepresentation of fact  
5 by the consumer. If a consumer reporting agency intends to remove a security freeze on  
6 a consumer report under this subdivision, the consumer reporting agency shall notify the  
7 consumer in writing prior to removing the security freeze.

**407.1568.** A third party requesting access to a consumer report on which a security  
2 freeze is in effect in connection with an application for credit or other permissible use may  
3 treat the application as incomplete if the consumer has not authorized a temporary lifting  
4 of the security freeze for the period of time during which the request is made.

**407.1570.** If a consumer requests a security freeze, the consumer reporting agency  
2 shall disclose to the consumer all information relevant to the process of instituting,  
3 temporarily lifting, and removing a security freeze and shall include the disclosure  
4 required by section 407.1584.

**407.1572.** A security freeze shall remain in place until the consumer requests that  
2 it be removed. A consumer reporting agency shall remove a security freeze within three  
3 business days after receiving a request for removal from the consumer, who, upon making  
4 the request for removal, shall provide the following:

5           (1) Proper identification as determined by the consumer reporting agency;

6           (2) The unique personal identification number or password provided by the  
7 consumer reporting agency under section 407.1558.

8           (3) Payment of a fee authorized by section 407.1576.

**407.1574.** The provisions of sections 407.1550 to 407.1584 shall not apply to the use  
2 of a consumer report by the following persons or for the following reasons:

3           (1) A person to whom the consumer owes a financial obligation or a subsidiary,  
4 affiliate, or agent of the person, or an assignee of a financial obligation owed by the

5 consumer to the person, or a prospective assignee of a financial obligation owed by the  
6 consumer to the person in conjunction with the proposed purchase of the financial  
7 obligation, with which the consumer has or had prior to assignment an account or contract,  
8 including a deposit account, or to whom the consumer issued a negotiable instrument, for  
9 the purposes of reviewing the account or collecting the financial obligation owed for the  
10 account, contract, or negotiable instrument. For purposes of this subdivision, "reviewing  
11 the account" includes activities related to account maintenance, monitoring, credit line  
12 increases, and account upgrades and enhancements;

13 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to  
14 whom access has been granted under sections 407.1550 to 407.1584 for purposes of  
15 facilitating the extension of credit or other permissible use;

16 (3) A state agency acting within its lawful investigative or regulatory authority;

17 (4) A state or local law enforcement agency acting to investigate a crime or  
18 conducting a criminal background check;

19 (5) Any person administering a credit file monitoring subscription service to which  
20 the consumer has subscribed;

21 (6) Any person for the purpose of providing a consumer with a copy of the  
22 consumer report upon the consumer's request;

23 (7) Under a court order lawfully entered;

24 (8) The use of credit information for the purposes of prescreening as provided for  
25 by the federal Fair Credit Reporting Act;

26 (9) Any insurance company for use in setting or adjusting a rate, adjusting a claim,  
27 or underwriting for insurance purposes;

28 (10) A consumer reporting agency's database or file which consists entirely of  
29 information concerning, and is used solely for, one or more of the following:

30 (a) Criminal record information;

31 (b) Personal loss history information;

32 (c) Fraud prevention or detection;

33 (d) Tenant screening;

34 (e) Employment screening.

407.1576. 1. A consumer reporting agency may charge a reasonable fee, not to  
2 exceed ten dollars, to a consumer who elects to place, remove, or temporarily lift a security  
3 freeze on his or her consumer report.

4 2. A consumer reporting agency shall not charge any fee:

5 (1) To a consumer sixty-five years of age or older for the initial placement or  
6 removal of a security freeze; or

7           (2) To a victim of identity theft who has submitted, at the time the security freeze  
8 is requested, a copy of a valid investigative or incident report or complaint with a law  
9 enforcement agency about the unlawful use of the victim's identifying information by  
10 another person.

11           3. A consumer reporting agency may charge a reasonable fee, not to exceed ten  
12 dollars, if the consumer fails to retain the original personal identification number or  
13 password provided by the consumer reporting agency and the agency shall reissue the  
14 personal identification number or password or provide a new personal identification  
15 number or password to the consumer.

          407.1578. If a security freeze is in effect, 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 after the change is  
4 posted to the consumer's file:

- 5           (1) Name;
- 6           (2) Address;
- 7           (3) Date of birth;
- 8           (4) Social Security number.

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10 Written confirmation is not required for technical corrections of a consumer's official  
11 information, including name and street abbreviations, complete spellings, or transposition  
12 of numbers or letters. In the case of an address change, the written confirmation shall be  
13 sent to both the new address and the former address.

          407.1580. The provisions of sections 407.1550 to 407.1584 shall not apply to the  
2 following entities:

- 3           (1) A check services company, which issues authorizations for the purpose of  
4 approving or processing negotiable instruments, electronic funds transfers, or similar  
5 methods of payment;
- 6           (2) A deposit account information service company, which issues reports regarding  
7 account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or  
8 similar negative information regarding a consumer to inquiring banks or other financial  
9 institutions for use only in reviewing a consumer request for a deposit account at the  
10 inquiring bank or financial institution or in federal law;
- 11           (3) A consumer reporting agency that acts only as a reseller of credit information  
12 by assembling and merging information contained in the database of another consumer  
13 reporting agency or multiple consumer reporting agencies and does not maintain a  
14 permanent database of credit information from which new consumer reports are produced.

15 However, a consumer reporting agency shall honor any security freeze placed, removed,  
16 or temporarily lifted on a consumer report by another consumer reporting agency;

17 (4) A fraud prevention services company issuing reports to prevent or investigate  
18 fraud.

407.1582. 1. In addition to any other penalties or remedies provided under law, a  
2 person who is aggrieved by a violation of the provisions of sections 407.1550 to 407.1584  
3 may bring a civil action as authorized by this section.

4 2. Any person who willfully fails to comply with any requirement imposed under  
5 sections 407.1550 to 407.1584 with respect to any consumer is liable to that consumer for  
6 actual damages sustained by the consumer as a result of the failure of not less than one  
7 hundred dollars and not more than one thousand dollars, plus the cost of the action  
8 together with reasonable attorney's fees.

9 3. Any individual who obtains a consumer report under false pretenses or  
10 knowingly without a permissible purpose is liable to the consumer for actual damages  
11 sustained by the consumer as a result of the failure or damages of not less than one  
12 hundred dollars and not more than one thousand dollars, whichever is greater. Any  
13 person who obtains a consumer report from a consumer reporting agency under false  
14 pretenses or knowingly without a permissible purpose is liable to the consumer reporting  
15 agency for actual damages sustained by the consumer reporting agency or one thousand  
16 dollars, whichever is greater.

17 4. Punitive damages may be assessed for willful violations of sections 407.1550 to  
18 407.1584.

19 5. Any person who is negligent in failing to comply with any requirement imposed  
20 under sections 407.1550 to 407.1584 with respect to any consumer is liable to that consumer  
21 for any actual damages sustained by the consumer as a result of the failure of not less than  
22 one hundred dollars and not more than one thousand dollars.

23 6. Upon a finding by the court that an unsuccessful pleading, motion, or other  
24 paper filed in connection with an action under this subsection was filed in bad faith or for  
25 purposes of harassment, the court shall award to the prevailing party attorney's fees that  
26 are reasonable in relation to the work performed in responding to the pleading, motion,  
27 or other paper.

407.1584. Any written disclosure by a consumer reporting agency, under 15 U.S.C.  
2 Section 1681g, to any consumer residing in this state shall include a written summary of  
3 all rights the consumer has under this section, and, in the case of a consumer reporting  
4 agency which compiles and maintains consumer reports on a nationwide basis, a toll-free  
5 telephone number which the consumer can use to communicate with the consumer

6 reporting agency. The information set forth in subdivision (2) of this section shall be in at  
7 least twelve-point boldface type. The written summary of rights required under this  
8 section is sufficient if it is substantially in the following form:

9 (1) You have a right to place a security freeze on your consumer report, which will  
10 prohibit a consumer reporting agency from releasing any information in your consumer  
11 report without your express authorization. A security freeze must be requested in writing  
12 by certified mail to a consumer reporting agency. The security freeze is designed to  
13 prevent credit, loans, and services from being approved in your name without your  
14 consent;

15 (2) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
16 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN  
17 YOUR CONSUMER REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE  
18 TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU  
19 MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE,  
20 GOVERNMENT SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT,  
21 INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE,  
22 INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING  
23 AN EXTENSION OF CREDIT AT POINT OF SALE;

24 (3) When you place a security freeze on your consumer report, you will be provided  
25 a personal identification number or password to use if you choose to remove the freeze on  
26 your consumer report or authorize the release of your consumer report for a designated  
27 period of time after the security freeze is in place. To provide that authorization, you must  
28 contact the consumer reporting agency and provide all of the following:

- 29 (a) The personal identification number or password;  
30 (b) Proper identification to verify your identity;  
31 (c) Information specifying the period of time for which the report shall be made  
32 available;  
33 (d) Payment of a fee authorized by section 407.1576;

34 (4) A consumer reporting agency must authorize the release of your consumer  
35 report no later than three business days after receiving the above information;

36 (5) A security freeze does not apply to a person or entity, or its affiliates, or  
37 collection agencies acting on behalf of the person or entity, with which you have an existing  
38 account, that requests information in your consumer report for the purposes of reviewing  
39 or collecting the account. Reviewing the account includes activities related to account  
40 maintenance, monitoring, credit line increases, and account upgrades and enhancements;

41           **(6) You have the right to bring a civil action against anyone, including a consumer**  
42 **reporting agency, who fails to comply with the provisions of sections 407.1550 to 407.1584,**  
43 **which governs the placing of a consumer report security freeze on your consumer report.**

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