

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1384
AND
HOUSE BILL NO. 2157
AN ACT

To amend chapters 407 and 570, RSMo, by adding thereto six new sections relating to identity protection, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapters 407 and 570, RSMo, is amended by adding
2 thereto six new sections, to be known as sections 407.1380,
3 407.1382, 407.1384, 407.1385, 570.222, and 570.380, to read as
4 follows:

5 407.1380. As used in sections 407.1380 to 407.1384, the
6 following terms shall mean:

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

10 (2) "Consumer", any individual;

11 (3) "Consumer credit reporting agency", any entity that,
12 for monetary fees, dues, or on a cooperative nonprofit basis,
13 regularly engages, in whole or in part, in the practice of
14 assembling or evaluating consumer credit information or other
15 information on consumers for the purpose of furnishing consumer
16 credit reports to third parties. The term "consumer credit

1 reporting agency" shall not include an entity that acts only as a
2 reseller of credit information by assembling and merging
3 information contained in the database of another consumer credit
4 reporting agency and who does not maintain a permanent database
5 of credit information from which consumer reports are produced
6 and who does not furnish consumer reports to third parties;

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

11 (5) "Security freeze", a notice placed in a consumer's
12 credit report, at the request of the consumer and subject to
13 certain exceptions, that prohibits the consumer credit reporting
14 agency from releasing the consumer's credit report or score
15 relating to the extension of credit without the express
16 authorization of the consumer.

17 407.1382. 1. A consumer may request that a consumer credit
18 reporting agency place a security freeze on that consumer's
19 credit report, if that request is made:

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

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

26 (3) Proper identification is presented to adequately
27 identify the requestor as the consumer subject to the credit
28 report.

1 2. A consumer credit reporting agency shall honor a
2 consumer's request for a security freeze within five business
3 days of receipt of such request. A consumer credit reporting
4 agency may assess a fee of up to five dollars for the first
5 request by a consumer to place a security freeze, and up to ten
6 dollars for any subsequent request to place a security freeze
7 made by the same consumer, except that at no time shall a fee be
8 assessed for a request to place a security freeze if the request
9 is accompanied by an incident report as defined under section
10 570.222, RSMo.

11 3. A consumer credit reporting agency shall, within ten
12 business days of placing a security freeze on the consumer's
13 credit report, send the consumer:

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

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

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

25 4. A consumer credit reporting agency shall not furnish a
26 credit report to any person if the consumer who is subject to the
27 credit report has requested a security freeze be placed on that
28 report unless the credit report:

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

3 (2) Is furnished under a court order;

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

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

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

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

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

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

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

27 (10) Is requested by a person or entity administering a
28 credit file monitoring service or similar service to which the

1 consumer has subscribed.

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

13 6. A consumer may request that the consumer credit
14 reporting agency temporarily lift a security freeze for a
15 specific requestor or period of time despite the consumer request
16 for a security freeze under subsection 1 of this section, if that
17 request is made:

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

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

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

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

3 7. (1) A consumer credit reporting agency shall
4 temporarily lift a security freeze within fifteen minutes of
5 receiving such a request from a consumer, if that request is
6 received during normal business hours and is made in accordance
7 with subdivisions (2), (3), and (4) of subsection 6 of this
8 section. If such a lift request is received outside of normal
9 business hours, the consumer credit reporting agency shall lift
10 the security freeze within fifteen minutes of the start of the
11 next normal business day.

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

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

26 8. A consumer credit reporting agency shall permanently
27 remove a security freeze within three days of receiving such a
28 request from a consumer, if that request is made:

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

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

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

12 9. A consumer credit reporting agency may assess a fee of
13 up to five dollars to temporarily lift a security freeze, except
14 that at no time shall a fee be assessed for a request to
15 temporarily lift a security freeze that was placed in conjunction
16 with an incident report under subsection 2 of this section. No
17 fee shall be assessed for a request to permanently remove a
18 security freeze.

19 10. At any time a consumer is required to receive a summary
20 of rights under 15 U.S.C. Section 1681g(d), the following notice
21 shall be included:

22 "Missouri Consumers Have the Right to Obtain a Security Freeze.

23 You have a right to place a "security freeze" on your credit
24 report, which will prohibit a consumer credit reporting agency
25 from releasing information in your credit report without your
26 express authorization. A security freeze must be requested in
27 writing by mail or via other approved methods. The security
28 freeze is designed to prevent credit, loans, and services from

1 being approved in your name without your consent. However, you
2 should be aware that using a security freeze to take control over
3 who gets access to the personal and financial information in your
4 credit report may delay, interfere with, or prohibit the timely
5 approval of any subsequent request or application you make
6 regarding a new loan, credit, mortgage, government services or
7 payments, rental housing, employment, investment, license,
8 cellular phone, utilities, digital signature, Internet credit
9 card transaction, or other services, including an extension of
10 credit at point of sale. When you place a security freeze on
11 your credit report, you will be provided a personal
12 identification number or password to use if you choose to remove
13 the freeze on your credit report or authorize the release of your
14 credit report for a period of time after the freeze is in place.
15 To provide that authorization you must contact the consumer
16 credit reporting agency and provide all of the following:

17 (1) The personal identification number or password;
18 (2) Proper identification to verify your identity;
19 (3) The proper information regarding the period of time for
20 which the report shall be available.

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

24 A security freeze does not apply to a person or entity, or
25 its affiliates, or collection agencies acting on behalf of the
26 person or entity, with which you have an existing account, that
27 requests information in your credit report for the purposes of
28 reviewing or collecting the account. Reviewing the account

1 includes activities related to account maintenance, monitoring,
2 credit line increases, and account upgrades and enhancements.

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

7 407.1384. 1. Any consumer credit reporting agency that
8 knowingly fails to comply with the provisions of sections
9 407.1380 to 407.1384 shall be liable to the consumer who is
10 subject to the credit report in an amount equal to:

11 (1) Any actual damages sustained by the consumer due to
12 such failure; and

13 (2) Any court costs and fees assessed in maintaining the
14 action, as well as reasonable attorney's fees.

15 2. In addition to the foregoing monetary sums, a court,
16 upon request of the damaged consumer, shall award such equitable
17 relief as may be necessary to restore the damaged consumer's
18 credit and to discourage future violations of sections 407.1380
19 to 407.1384 by the consumer credit reporting agency.

20 407.1385. It shall not be considered a violation of any law
21 that requires an application for credit to be processed within a
22 specified time frame if a creditor is unable to meet this time
23 frame because of inability to access a credit report due to a
24 security freeze.

25 570.222. 1. Notwithstanding that jurisdiction may lie
26 elsewhere for investigation and prosecution of a crime of
27 identity theft, victims of identity theft have the right to
28 contact the local law enforcement agency where the victim is

1 domiciled and request that an incident report about the identity
2 theft be prepared and filed. The victim may also request from
3 the local law enforcement agency to receive a copy of the
4 incident report. The law enforcement agency may share the
5 incident report with law enforcement agencies located in other
6 jurisdictions.

7 2. As used in this section "incident report" means a loss
8 or other similar report prepared and filed by a local law
9 enforcement agency.

10 3. Nothing in this section shall interfere with the
11 discretion of a local law enforcement agency to allocate
12 resources for investigations of crimes or to provide an incident
13 report as permitted in this section. An incident report prepared
14 and filed under this section shall not be an open case for
15 purposes of compiling open case statistics.

16 570.380. Any person who manufactures or possesses five or
17 more fictitious or forged means of identification, as defined in
18 section 570.223, with the intent to distribute to others for the
19 purpose of committing a crime shall be guilty of a class C
20 felony.