

SECOND REGULAR SESSION
[CORRECTED]
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1384
AND
HOUSE BILL NO. 2157
94TH GENERAL ASSEMBLY

3562S.06T

2008

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:

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

407.1380. As used in sections 407.1380 to 407.1384, the following terms shall mean:
2 **(1) "Account review", activities related to account maintenance, monitoring, credit**
3 **line increases, and account upgrades and enhancements;**
4 **(2) "Consumer", any individual;**
5 **(3) "Consumer credit reporting agency", any entity that, for monetary fees, dues,**
6 **or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice**
7 **of assembling or evaluating consumer credit information or other information on**
8 **consumers for the purpose of furnishing consumer credit reports to third parties. The**
9 **term "consumer credit reporting agency" shall not include an entity that acts only as a**

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.

10 reseller of credit information by assembling and merging information contained in the
11 database of another consumer credit reporting agency and who does not maintain a
12 permanent database of credit information from which consumer reports are produced and
13 who does not furnish consumer reports to third parties;

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

17 (5) "Security freeze", a notice placed in a consumer's credit report, at the request
18 of the consumer and subject to certain exceptions, that prohibits the consumer credit
19 reporting agency from releasing the consumer's credit report or score relating to the
20 extension of credit without the express authorization of the consumer.

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

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

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

8 (3) Proper identification is presented to adequately identify the requestor as the
9 consumer subject to the credit report.

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

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

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

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

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

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

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

30 **(2) Is furnished under a court order;**

31 **(3) Is furnished during a period in which the consumer has temporarily lifted the**
32 **freeze;**

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

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

36 **(6) Is requested for use in setting or adjusting a rate, underwriting, adjusting a**
37 **claim, or servicing a policy for insurance purposes;**

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

41 **(8) Is furnished to a person, or the subsidiary, affiliate, agent, or assignee of such**
42 **person, with whom the consumer has a debtor-creditor relationship for the purpose of**
43 **account review or collecting the financial obligation owing for the account contract or**
44 **debt;**

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

48 **(10) Is requested by a person or entity administering a credit file monitoring service**
49 **or similar service to which the consumer has subscribed.**

50 **5. If a security freeze is in place, a consumer credit reporting agency shall not**
51 **change any of the following official information in a consumer credit report without**
52 **sending a written confirmation of the change to the consumer within thirty days of the**
53 **change being posted to the consumer's file: name, date of birth, social security number,**
54 **and address. Written confirmation is not required for technical modifications of a**
55 **consumer's official information, including name and street abbreviations, complete**
56 **spellings, or transposition of numbers or letters. In the case of an address change, the**
57 **written confirmation shall be sent to both the new address and to the former address.**

58 **6. A consumer may request that the consumer credit reporting agency temporarily**
59 **lift a security freeze for a specific requestor or period of time despite the consumer request**
60 **for a security freeze under subsection 1 of this section, if that request is made:**

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

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

66 (3) Proper identification is presented to adequately identify the requestor as the
67 consumer subject to the credit report, which shall include the unique personal
68 identification number or password issued to the consumer under subsection 3 of this
69 section; and

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

71 7. (1) A consumer credit reporting agency shall temporarily lift a security freeze
72 within fifteen minutes of receiving such a request from a consumer, if that request is
73 received during normal business hours and is made in accordance with subdivisions (2),
74 (3), and (4) of subsection 6 of this section. If such a lift request is received outside of
75 normal business hours, the consumer credit reporting agency shall lift the security freeze
76 within fifteen minutes of the start of the next normal business day.

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

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

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

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

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

93 (3) Proper identification is presented to adequately identify the requestor as the
94 consumer subject to the credit report, which shall include the unique personal
95 identification number or password issued to the consumer under subsection 3 of this
96 section.

97 **9. A consumer credit reporting agency may assess a fee of up to five dollars to**
98 **temporarily lift a security freeze, except that at no time shall a fee be assessed for a request**
99 **to temporarily lift a security freeze that was placed in conjunction with an incident report**
100 **under subsection 2 of this section. No fee shall be assessed for a request to permanently**
101 **remove a security freeze.**

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

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

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

- 121 **(1) The personal identification number or password;**
122 **(2) Proper identification to verify your identity;**
123 **(3) The proper information regarding the period of time for which the report shall**
124 **be available.**

125 **A consumer credit reporting agency must authorize the release of your credit report**
126 **no later than fifteen minutes after receiving the above information, under certain**
127 **circumstances.**

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

133 **You have a right to bring civil action against anyone, including a consumer credit**
134 **reporting agency, who improperly obtains access to a file, knowingly misuses file data, or**
135 **fails to correct inaccurate file data."**

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

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

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

7 **2. In addition to the foregoing monetary sums, a court, upon request of the**
8 **damaged consumer, shall award such equitable relief as may be necessary to restore the**
9 **damaged consumer's credit and to discourage future violations of sections 407.1380 to**
10 **407.1384 by the consumer credit reporting agency.**

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

570.222. 1. Notwithstanding that jurisdiction may lie elsewhere for investigation
2 **and prosecution of a crime of identity theft, victims of identity theft have the right to**
3 **contact the local law enforcement agency where the victim is domiciled and request that**
4 **an incident report about the identity theft be prepared and filed. The victim may also**
5 **request from the local law enforcement agency to receive a copy of the incident report. The**
6 **law enforcement agency may share the incident report with law enforcement agencies**
7 **located in other jurisdictions.**

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

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

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

✓