

SECOND REGULAR SESSION

HOUSE BILL NO. 1618

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (117) (Sponsor), CUNNINGHAM (86), PARSON, ROORDA, GRISAMORE, RUESTMAN, BRUNS, NOLTE, HOLSMAN, BAKER (25), PORTWOOD, BAKER (123), VIEBROCK, HARRIS (110), WALTON, LOEHNER, BROWN (30), FAITH, JONES (89), MEADOWS, KOMO, WRIGHT, ONDER, FARES, BIVINS, MOORE, YAEGER, SCHAD, MCGHEE AND SCAVUZZO (Co-sponsors).

Read 1st time January 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3090L.02I

AN ACT

To amend chapter 407, RSMo, by adding thereto thirteen new sections relating to identity theft protection, with an effective date.

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

Section A. Chapter 407, RSMo, is amended by adding thereto thirteen new sections, to
2 be known as sections 407.1400, 407.1402, 407.1404, 407.1406, 407.1408, 407.1410, 407.1412,
3 407.1414, 407.1416, 407.1418, 407.1420, 407.1422, and 407.1424, to read as follows:

407.1400. Sections 407.1400 to 407.1424 shall be known and may be cited as the
2 **"Missouri Consumer Report Security Freeze Act".**

407.1402. As used in sections 407.1400 to 407.1424, 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;**

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 (b) Employment purposes; or

11 (c) Any other purpose authorized under sections 407.1400 to 407.1424;

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

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

20 (5) "Security freeze", a notice placed in a consumer report of a consumer at the
21 request of the consumer that prohibits a consumer reporting agency from releasing the
22 consumer report or credit score of the consumer in response to a request to open a new
23 account or to extend credit.

407.1404. 1. A consumer may request that a security freeze be placed on his or her
2 consumer report by sending a request in writing by certified mail to a consumer reporting
3 agency at an address designated by the consumer reporting agency to receive such
4 requests. This subsection does not prevent a consumer reporting agency from advising a
5 third party that a security freeze is in effect with respect to the consumer report of a
6 consumer.

7 2. (1) Except as provided in subdivision (2) of this subsection, a consumer
8 reporting agency shall place a security freeze on a consumer report of a consumer no later
9 than five business days after receiving from the consumer:

10 (a) A written request as provided in subsection 1 of this section;

11 (b) Proper identification; and

12 (c) Payment of the required fee, if applicable.

13 (2) For any security freeze requested before May 1, 2009, the deadline stated in this
14 subsection shall be ten business days if a consumer reporting agency in good faith is unable
15 to process during normal business hours the quantity of security freeze requests received.

16 3. (1) The consumer reporting agency shall send a written confirmation of the
17 placement of the security freeze to the consumer within ten business days.

18 (2) Upon placing the security freeze on the consumer report of the consumer, the
19 consumer reporting agency shall provide the consumer with a unique personal
20 identification number or password to be used by the consumer when providing
21 authorization for the release of his or her consumer report for a specific period of time.

22 **4. If a consumer requests a security freeze, the consumer reporting agency shall**
23 **disclose the process:**

24 **(1) Of placing a security freeze and temporarily lifting a security freeze; and**

25 **(2) For allowing access to information from the consumer report of the consumer**
26 **for a period of time while the security freeze is in place.**

407.1406. A consumer reporting agency may charge a consumer a fee of no more
2 **than fifteen dollars for each security freeze. If the consumer is sixty-five years of age or**
3 **older, such fee shall be waived. No fee shall be charged for victims of identity theft and**
4 **have submitted, at the time the security freeze is requested, a copy of a valid investigative**
5 **report or incident report or complaint with a law enforcement agency about the unlawful**
6 **use of identifying information by another person.**

407.1408. 1. If the consumer wishes to allow his or her consumer report to be
2 **accessed for a specific period of time while a security freeze is in place, he or she shall**
3 **contact the consumer reporting agency using a method of contact designated by the**
4 **consumer reporting agency requesting that the security freeze be temporarily lifted and**
5 **providing, to complete the request, all of the following:**

6 **(1) Proper identification;**

7 **(2) The unique personal identification number or password provided by the**
8 **consumer reporting agency under section 407.1404;**

9 **(3) The proper information regarding the time period for which the consumer**
10 **report shall be available to users of the consumer report; and**

11 **(4) The required fee, if applicable.**

12 **2. A consumer reporting agency that receives a request from a consumer to**
13 **temporarily lift a security freeze on his or her consumer report accompanied by all of the**
14 **items listed in subsection 1 of this section shall comply with the request no later than**
15 **twenty-four hours after receiving the completed request.**

16 **3. A consumer reporting agency may develop procedures involving the use of**
17 **telephone, facsimile, the Internet, or other electronic media to receive and process a request**
18 **from a consumer to temporarily lift a security freeze on a consumer report under**
19 **subsection 1 of this section in an expedited manner.**

407.1410. 1. (1) A consumer reporting agency shall remove or temporarily lift a
2 **security freeze placed on the consumer report of a consumer in the following cases:**

3 **(a) Upon the consumer's request under section 407.1408 or 407.1412; or**

4 **(b) If the consumer report of the consumer was frozen due to a material**
5 **misrepresentation of fact by the consumer.**

6 **(2) If a consumer reporting agency intends to remove a security freeze upon a**
7 **consumer report of a consumer and is not doing so at the request of the consumer, the**
8 **consumer reporting agency shall notify the consumer in writing prior to removing the**
9 **security freeze on the consumer report of the consumer.**

10 **2. If a third party requests access to a consumer report on which a security freeze**
11 **is in effect and the third-party request is in connection with an application for credit or any**
12 **other use and the consumer does not allow his or her consumer report to be accessed for**
13 **that period of time, the third party may treat the application as incomplete.**

14 **3. No charge shall be assessed for the first five removals of a security freeze under**
15 **this section; however, after the first five removals, a consumer reporting agency may**
16 **charge five dollars for any additional removals.**

407.1412. 1. (1) A security freeze shall remain in place until the consumer requests
2 **that the security freeze be removed using a method of contact designated by the consumer**
3 **reporting agency.**

4 **(2) A consumer reporting agency shall remove a security freeze within twenty-four**
5 **hours of receiving a request for removal under subdivision (1) of this subsection from a**
6 **consumer who provides with the request:**

7 **(a) Proper identification;**

8 **(b) The unique personal identification number or password provided by the**
9 **consumer reporting agency under section 407.1404; and**

10 **(c) The required fee, if applicable.**

11 **2. A consumer reporting agency shall require proper identification of the consumer**
12 **making a request to place or remove a security freeze.**

407.1414. Sections 407.1400 to 407.1424 shall not apply to the use of a consumer
2 **credit report by any of the following:**

3 **(1) A person or entity, or a subsidiary, an affiliate, or an agent of that person or**
4 **entity, or an assignee of a financial obligation owed by the consumer to that person or**
5 **entity, or a prospective assignee of a financial obligation owed by the consumer to that**
6 **person or entity in conjunction with the proposed purchase of the financial obligation, with**
7 **which the consumer has or had prior to assignment an account or a contract including a**
8 **demand deposit account, or to whom the consumer issued a negotiable instrument, for the**
9 **purposes of reviewing the account or collecting the financial obligation owed for the**
10 **account, contract, or negotiable instrument. As used in this subdivision, reviewing the**
11 **account includes activities related to account maintenance, monitoring, credit line**
12 **increases, and account upgrades and enhancements;**

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

16 (3) A state or local agency, law enforcement agency, trial court, or private collection
17 agency acting under a court order, warrant, or subpoena;

18 (4) A state or local child support enforcement agency;

19 (5) The state or its agents or assigns acting to investigate fraud or acting to
20 investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other
21 constitutional or statutory responsibilities if such responsibilities are consistent with a
22 permissible purpose under Section 1681b of Title 15 of the United States Code, as
23 amended;

24 (6) The use of credit information used for purposes permitted under Section
25 1681b(c) of Title 15 of the United States Code, as amended;

26 (7) Any person or entity administering a credit file monitoring subscription or
27 similar service to which the consumer has subscribed;

28 (8) Any person or entity for the purpose of providing a consumer with a copy of his
29 or her consumer report or credit score upon the request of the consumer;

30 (9) Any person using the information in connection with the business of insurance;
31 or

32 (10) A consumer reporting agency's database or file that is used for one or more
33 of the following:

34 (a) Maintaining criminal records;

35 (b) Fraud prevention or detection;

36 (c) Maintaining personal loss history information; or

37 (d) Employment, tenant, or individual background screening.

407.1416. 1. 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 posting the
4 change to the file of the consumer:

5 (1) Name;

6 (2) Date of birth;

7 (3) Social Security number; and

8 (4) Address.

9 2. (1) Written confirmation is not required for technical modifications of official
10 information of a consumer, including name and street abbreviations, complete spellings,
11 or the transposition of numbers or letters.

12 (2) In the case of an address change, the written confirmation shall be sent to both
13 the new address and to the former address.

407.1418. The following entities shall not be required to place a security freeze on
2 a consumer report:

3 (1) A consumer reporting agency that acts only as a reseller of credit information
4 by assembling and merging information contained in the database of another consumer
5 reporting agency or multiple consumer reporting agencies and does not maintain a
6 permanent database of credit information from which new consumer reports are produced.
7 However, a consumer reporting agency acting as a reseller shall honor any security freeze
8 placed on a consumer report by another consumer reporting agency;

9 (2) A check services or fraud prevention services company that issues reports on
10 incidents of fraud or authorizations for the purpose of approving or processing negotiable
11 instruments, electronic funds transfers, or similar methods of payments; or

12 (3) A deposit account information service company that issues reports regarding
13 account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or
14 similar negative information regarding a consumer to inquiring banks or other financial
15 institutions for use only in reviewing a consumer request for a deposit account at the
16 inquiring bank or financial institution.

407.1420. At any time that a consumer is required to receive a summary of rights
2 required under section 609 of the Fair Credit Reporting Act 15 U.S.C. s. 168lg, the
3 following notice shall be included:

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

5 You may obtain a security freeze on your credit report to protect your privacy and
6 ensure that credit is not granted in your name without your knowledge. You have a right
7 to place a security freeze on your credit report under Missouri law. The security freeze
8 will prohibit a consumer reporting agency from releasing any information in your credit
9 report without your express authorization or approval. A security freeze shall be
10 requested in writing by certified mail. The security freeze is designed to prevent credit,
11 loans, and services from being approved in your name without your consent. However,
12 you should be aware that using a security freeze to take control over who gets access to the
13 personal and financial information in your credit report may delay, interfere with, or
14 prohibit the timely approval of any subsequent request or application you make regarding
15 a new loan, credit, mortgage, government services or payments, rental housing,
16 employment, investment, license, cellular phone, utilities, digital signature, Internet credit
17 card transaction, or other services, including an extension of credit at point of sale. When
18 you place a security freeze on your credit report, you will be provided a personal

19 identification number or password to use if you choose to remove the freeze on your credit
20 report or to temporarily authorize the release of your credit report for a specific party,
21 parties, or period of time after the freeze is in place. To provide that authorization, you
22 must contact the consumer reporting agency by one of the methods that it requires and
23 provide all of the following:

24 (1) The unique personal identification number or password provided by the
25 consumer reporting agency;

26 (2) Proper identification to verify your identity;

27 (3) The proper information regarding the third party or parties who are to receive
28 the credit report or the period of time for which the report shall be available to users of the
29 credit report; and

30 (4) Payment of the appropriate fee, if any.

31 A consumer reporting agency must authorize the release of your credit report no
32 later than twenty-four hours after receiving all of the above items by any method that the
33 consumer reporting agency allows.

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

39 You have a right to bring a civil action against anyone, including a consumer
40 reporting agency, that willfully or negligently fails to comply with any requirement of the
41 Missouri Consumer Report Security Freeze Act.

42 A consumer reporting agency has the right to charge you up to fifteen dollars to
43 place a security freeze on your credit report. No fee shall be charged for victims of identity
44 theft and have submitted, at the time of the security freeze is requested, a copy of a valid
45 investigative report or incident report or complaint with a law enforcement agency about
46 the unlawful use of your identifying information by another person. No fee shall be
47 charged to any person sixty-five years of age or older.

407.1422. 1. Any person or entity that willfully fails to comply with any
2 requirement imposed under sections 407.1400 to 407.1424 shall be liable to that consumer
3 in an amount equal to the sum of:

4 (1) Any actual damages sustained by the consumer; and

5 (2) In the case of any successful action to enforce any liability under sections
6 407.1400 to 407.1424, the costs of the action together with reasonable attorney's fees as
7 determined by the court.

8 **2. Any person or entity who is negligent in failing to comply with any requirement**
9 **imposed under sections 407.1400 to 407.1424 with respect to any consumer is liable to that**
10 **consumer in an amount equal to the sum of:**

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

12 **(2) In the case of any successful action to enforce any liability under sections**
13 **407.1400 to 407.1424, the costs of the action together with reasonable attorney's fees as**
14 **determined by the court.**

407.1424. 1. A violation of sections 407.1400 to 407.1424 constitutes an unfair
2 **practice under section 407.020.**

3 **2. (1) All remedies, penalties, and authority granted to the attorney general shall**
4 **be available to the attorney general for enforcement of sections 407.1400 to 407.1424.**

5 **(2) The remedies and penalties provided by this section are cumulative to each**
6 **other and the remedies or penalties available under all other laws of this state.**

 Section B. Section A of this act shall become effective January 1, 2009.

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