

HOUSE BILL No. 2134

AN ACT concerning consumer credit; relating to security freezes on protected consumer reports; amending K.S.A. 2015 Supp. 50-702 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. (a) A consumer reporting agency shall place a security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze and the protected consumer's representative:

(1) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(3) provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(4) pays to the consumer reporting agency a fee as provided in subsection (g).

(b) If a consumer reporting agency does not have a record pertaining to a protected consumer when the consumer reporting agency receives a request under subsection (a), the consumer reporting agency shall create a record for the protected consumer.

(c) Within 30 days after receiving a request that meets the requirements of subsection (a), a consumer reporting agency shall place a security freeze for the protected consumer.

(d) Unless a security freeze for a protected consumer is removed in accordance with subsection (f) or (i), a consumer reporting agency shall not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(e) A security freeze for a protected consumer placed under subsection (c) shall remain in effect until:

(1) The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with subsection (f); or

(2) the security freeze is removed in accordance with subsection (i).

(f) (1) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for a protected consumer, the protected consumer or the protected consumer's representative shall:

(A) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(B) provide to the consumer reporting agency sufficient proof of identification of the protected consumer and:

(i) For a request by the protected consumer, proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; or

(ii) for a request by the representative of a protected consumer, sufficient proof of identification of the representative and sufficient proof of authority to act on behalf of the protected consumer; and

(C) pay to the consumer reporting agency a fee as provided in subsection (g).

(g) (1) Except as otherwise provided in subsection (g)(2), a consumer reporting agency shall not charge a fee for any service performed under this section.

(2) A consumer reporting agency may charge a reasonable fee, not exceeding \$10, for each placement or removal of a security freeze for a protected consumer, except a consumer reporting agency shall not charge any fee under this section if:

(A) The protected consumer's representative has obtained a police report or provided an affidavit of alleged fraud against the protected consumer and provides a copy of the report or the affidavit to the consumer reporting agency; or

(B) a request for the placement or removal of a security freeze is for a protected consumer who is under the age of 18 years at the time of the request and the consumer reporting agency has a consumer report pertaining to the protected consumer.

(h) This section shall not apply to:

(1) A person administering a credit file monitoring subscription serv-

ice to which the protected consumer has subscribed or the representative of the protected consumer has subscribed on behalf of the protected consumer;

(2) a person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report on request of the protected consumer or the protected consumer's representative; or

(3) a person or entity listed in K.S.A. 2015 Supp. 50-723(i)(1) and (6) through (12) or 50-724(a)(1) through (5), and amendments thereto.

(i) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if such security freeze was placed or the record was created based on a material misrepresentation of a fact by the protected consumer or the protected consumer's representative.

(j) Any person who fails to comply with any requirement imposed under this section with respect to any protected consumer shall be liable pursuant to the provisions of the fair credit reporting act.

(k) This section shall be part of and supplemental to the fair credit reporting act.

Sec. 2. K.S.A. 2015 Supp. 50-702 is hereby amended to read as follows: 50-702. The following words and phrases when used in the fair credit reporting act shall have the meanings ascribed to them in this section.

(a) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) The term "consumer" means an individual.

(c) The term "consumer report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance to be used primarily for personal, family, or household purposes, or employment purposes, or other purposes authorized under K.S.A. 50-703, and amendments thereto. The term does not include:

(1) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(2) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or

(3) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys that decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under K.S.A. 50-714, and amendments thereto.

(d) The term "investigative consumer report" means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(e) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(f) The term "file," when used in connection with information on any consumer, means all of the information on that consumer recorded and

retained by a consumer reporting agency regardless of how the information is stored.

(g) The term “employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

(h) The term “medical information” means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

(i) The term “clear and proper identification” means information generally deemed sufficient to identify a person.

(j) The term “security freeze” means a notice placed on a consumer report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer’s consumer report or credit score relating to the extension of credit.

(k) *The term “protected consumer” means an individual who is:*

(1) *Under the age of 16 years at the time a request for the placement of a security freeze is made under section 1, and amendments thereto; or*

(2) *an individual for whom a guardian or conservator has been appointed.*

(l) *The term “record” means a compilation of information about a protected consumer that satisfies all of the following:*

(1) *The compilation identifies the protected consumer; and*

(2) *the compilation is created by a consumer reporting agency solely for the purpose of complying with section 1, and amendments thereto.*

(m) *The term “security freeze for a protected consumer” means one of the following:*

(1) *If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction placed on the protected consumer’s record that prohibits the consumer reporting agency from releasing the protected consumer’s record; or*

(2) *if a consumer reporting agency has a file pertaining to the protected consumer, a restriction placed on the protected consumer’s consumer report that prohibits the consumer reporting agency from releasing the protected consumer’s consumer report or any information derived from the protected consumer’s consumer report.*

(n) *The term “sufficient proof of authority” means documentation that shows a representative has authority to act on behalf of a protected consumer, including any of the following:*

(1) *An order issued by a court;*

(2) *a lawfully executed and valid power of attorney; or*

(3) *a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.*

(o) *The term “sufficient proof of identification” means information or documentation that identifies a protected consumer or a representative of a protected consumer, including any of the following:*

(1) *A social security number or a copy of a social security card issued by the social security administration; or*

(2) *a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate.*

Sec. 3. K.S.A. 2015 Supp. 50-702 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after January 1, 2017, and its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE concurred in  
SENATE amendments \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*