STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1748

By: Bass, Lawler, Garrison, Adelson, Ford, Lamb, Crain and Jolley of the Senate

and

Ingmire, Nance, Terrill, Worthen, Balkman and Denney of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to debtor and creditor; creating the Oklahoma Consumer Report Security Freeze Act; providing short title; defining terms; providing procedures for placing a security freeze; providing for temporary lifting of an existing security freeze; restricting lifting of a security freeze; establishing requirements for removal of security freeze; limiting scope; specifying fee; providing procedure for changing certain information; exempting certain entities from placing a security freeze; specifying notice requirement; specifying penalties; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 149 of Title 24, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Consumer Report Security Freeze Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150 of Title 24, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Consumer" means an individual who is also a resident of this state;

2. “Consumer report” has the meaning ascribed to it in 15 U.S.C., Section 1681a(d);

3. “Consumer reporting agency” has the meaning ascribed to it in 15 U.S.C., Section 1681a(f);

4. “Proper identification” has the meaning ascribed to it in 15 U.S.C., Section 1681h(a)(1); and

5. “Security freeze” means a notice placed in a consumer report of a consumer, at the request of the consumer and subject to certain exceptions, that prohibits the consumer reporting agency from releasing the consumer report or credit score of the consumer relating to the opening of new accounts or the extension of credit.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 151 of Title 24, unless there is created a duplication in numbering, reads as follows:

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

B. A consumer reporting agency shall place a security freeze on a consumer report of a consumer no later than five (5) business days after receiving from the consumer:

1. A written request as provided in subsection A of this section;

2. Proper identification; and

3. Payment of the required fee, if applicable.

Provided, however, with respect to any security freeze requested before May 1, 2007, the deadline stated in this subsection shall be ten (10) business days if a consumer reporting agency in good faith

is unable to process during normal business hours the quantity of security freeze requests being received.

C. The consumer reporting agency shall send a written confirmation of the placement of the security freeze to the consumer within ten (10) business days. Upon placing the security freeze on the consumer report of the consumer, the consumer reporting agency shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her consumer report for a specific period of time.

D. If a consumer requests a security freeze, the consumer reporting agency shall disclose the process of placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer report of the consumer for a period of time while the freeze is in place.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 152 of Title 24, unless there is created a duplication in numbering, reads as follows:

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

1. Proper identification;

2. The unique personal identification number or password provided by the consumer reporting agency pursuant to subsection C of Section 3 of this act;

3. The proper information regarding the time period for which the report shall be available to users of the credit report; and

4. The required fee, if applicable.

B. A consumer reporting agency that receives a request from a consumer to temporarily lift a freeze on his or her consumer report, accompanied by all of the items listed in subsection A of this section, shall comply with the request no later than three (3) business days after receiving the completed request.

C. A consumer reporting agency may develop procedures involving the use of telephone, facsimile, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a consumer report pursuant to subsection A of this section in an expedited manner.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 153 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. A consumer reporting agency shall remove or temporarily lift a freeze placed on the consumer report of a consumer only in the following cases:

1. Upon consumer request, pursuant to Sections 4 and 6 of this act; or

2. If the consumer report of the consumer was frozen due to a material misrepresentation of fact by the consumer.

If a consumer reporting agency intends to remove a freeze upon a consumer report of a consumer, and is not doing so at the request of the consumer, the consumer reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer report of the consumer.

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 154 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. A security freeze shall remain in place until the consumer requests, using a method of contact designated by the consumer reporting agency, that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three (3) business days of receiving such a request for removal from the consumer, who provides along with it:

1. Proper identification;

2. The unique personal identification number or password provided by the consumer reporting agency pursuant to Section 3 of this act; and

3. The required fee, if applicable.

B. A consumer reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 155 of Title 24, unless there is created a duplication in numbering, reads as follows:

The provisions of this act do not apply to the use of a consumer credit report by any of the following:

1. A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owed by the consumer to that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes

of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;

3. Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;

4. A child support agency acting pursuant to Title IV-D of the Social Security Act;

5. The state or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities, provided such responsibilities are consistent with a permissible purpose under Section 1681b of Title 15 of the United States Code;

6. The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act;

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

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

9. Any person using the information in connection with the underwriting of insurance.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 156 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. This act does not prevent a consumer reporting agency from charging a fee of no more than Ten Dollars ($10.00) to a consumer for each freeze, removal of the freeze, or temporary lifting of the freeze for a period of time, regarding access to a consumer credit report.

B. A consumer reporting agency shall not charge any fee to:

1. A victim of identity theft who has submitted, at the time the security freeze is requested, a copy of a valid investigative or incident report or complaint with a law enforcement agency about the unlawful use of the victim's identifying information by another person; or

2. A consumer sixty-five (65) years of age or older for the initial placement and removal of a security freeze.

C. If a security freeze is in place, a consumer reporting agency shall not change any of the following official information in a consumer report without sending a written confirmation of the change to the consumer within thirty (30) days of the change being posted to the file of the consumer:

1. Name;

2. Date of birth;

3. Social security number; and

4. Address.

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

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 157 of Title 24, unless there is created a duplication in numbering, reads as follows:

The following entities are not required to place a security freeze on a consumer report:

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

2. A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments; or

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

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 158 of Title 24, unless there is created a duplication in numbering, reads as follows:

At any time a consumer is required to receive a summary of rights required under Section 1681g of Title 15 of the United States Code, the following notice shall be included:

"Oklahoma Consumers Have the Right to Obtain a Security Freeze.

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. A security freeze must be requested in writing by

certified mail. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a period of time after the freeze is in place. To provide that authorization you must contact the consumer reporting agency by one of the methods that it requires, and provide all of the following:

1. The personal identification number or password;

2. Proper identification to verify your identity;

3. The proper information regarding the period of time for which the report shall be available; and

4. The payment of the appropriate fee.

A consumer reporting agency must authorize the release of your credit report no later than three (3) business days after receiving all of the above items by any method that the consumer reporting agency allows.

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

related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

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

A consumer reporting agency has the right to charge you up to Ten Dollars ($10.00) to place a freeze on your credit report, up to Ten Dollars ($10.00) to temporarily lift a freeze on your credit report, and up to Ten Dollars ($10.00) to remove a freeze from your credit report. However, you shall not be charged any fee if you are a victim of identity theft who has submitted, at the time the security freeze is requested, a copy of a valid investigative or incident report or complaint with a law enforcement agency about the unlawful use of your identifying information by another person, or if you are sixty-five (65) years of age or older for the initial placement and removal of a security freeze."

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 159 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. Any person who willfully fails to comply with any requirement imposed under the provisions of this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

1. Any actual damages sustained by the consumer; and

2. In the case of any successful action to enforce any liability under the provisions of this act, the costs of the action together with reasonable attorney fees as determined by the court.

B. Any person who obtains a consumer report, requests a security freeze, or requests the temporary lift of a security freeze or the removal of a security freeze from a consumer reporting agency under false pretenses or in an attempt to violate federal or state

law shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or One Thousand Dollars ($1,000.00), whichever is greater.

C. Any person who is negligent in failing to comply with any requirement imposed under this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

1. Any actual damages sustained by the consumer as a result of the failure; and

2. In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney fees as determined by the court.

D. Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under the provisions of this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party reasonable attorney fees in relation to the work expended in responding to the pleading, motion, or other paper.

SECTION 12. This act shall become effective January 1, 2007.

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