

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1036

By: Wilcoxson

AS INTRODUCED

An Act relating to debtor and creditor; defining terms; requiring consumer reporting agency to place security freeze on certain file under specified circumstance; requiring disclosure of specified information by consumer reporting agency; requiring written confirmation of security freeze and notice of certain information within specified time period; providing for replacement personal identification number or password under specified circumstances; authorizing fee for service; requiring consumer reporting agency to provide certain notice to consumer of specified changes within certain time period; requiring consumer reporting agency to provide notice of security freeze to requestors of consumer or credit report; providing requirements for removal and for temporary removal of security freeze; permitting development of procedures for removal; providing for removal of security freeze when material facts are misrepresented; prohibiting consumer reporting agency from charging a fee for specified requests; limiting the application of security freeze for reports provided to certain agencies or persons; excluding certain entities from the requirement to place a security freeze on a consumer report; 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:

As used in this act:

1. "Consumer" means any natural person who is a resident of this state;
2. "Consumer file" means all of the information about a consumer that is recorded and retained by a consumer reporting agency regardless of how the information is stored;

3. "Consumer reporting agency" means any person or entity 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. The term does not include a business entity that provides only check verification or check guarantee services;

4. "Credit report" or "consumer report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine the consumer's eligibility for credit or other purpose authorized under Sections 603 and 604 of the Fair Credit Reporting Act, 15 U.S.C., Sections 1681a and 1681b, as amended. The term does not include:

- a. a report containing information based solely on a transaction between the consumer and the person making the report,
- b. an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device,
- c. a 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 makes a decision with respect to the request, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures that must be made under Section 615 of the Fair Credit Reporting Act (15 U.S.C., Section 1681m), as amended, to the consumer in the event of adverse action against the consumer,

- d. any communication of information described in this section among persons related by common ownership or affiliated by corporate control, or
- e. any communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity before the time that the information is initially communicated to direct that such information not be communicated among such persons;

5. "Person" means any individual, company, partnership, joint venture, joint agreement, association, mutual association, limited liability company, corporation, estate, trust, and any other group or combination acting as a unit; and

6. "Security freeze" means a notice placed on a consumer file that prohibits a consumer reporting agency from releasing a consumer report relating to the extension of credit involving that consumer file without the express authorization of the consumer.

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:

A. A consumer reporting agency shall place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives a request to place a security freeze on the file, if the consumer sends a written request for such freeze by certified mail and includes such identification as a consumer reporting agency may require.

B. Upon receipt of a request by a consumer for a security freeze which meets the requirements of subsection A of this section, a consumer reporting agency shall disclose to the consumer the

process of placing, removing and temporarily lifting a security freeze and the process for allowing access to information from the consumer's consumer file for a specific requestor or period while the security freeze is in effect.

C. Not later than the tenth business day after the date the agency receives the request for a security freeze, a consumer reporting agency shall:

1. Send a written confirmation of a security freeze to the consumer; and

2. Provide the consumer with a unique personal identification number or password to be used by the consumer to authorize a removal or temporary lifting of the security freeze.

D. A consumer may request in writing a replacement personal identification number or password. Such request shall be in compliance with the requirements for requesting a security freeze under subsection A of this section. Not later than the third business day after the receipt of a request for a replacement personal identification number or password, a consumer reporting agency shall provide the consumer with a new and unique personal identification number or password to be used by the consumer instead of the number or password that was provided under subsection C of this section.

E. A consumer reporting agency may charge a fee not to exceed Eight Dollars (\$8.00) for placing a security freeze on a consumer's consumer file or for providing a replacement personal identification number or password.

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:

If a security freeze is in place, a consumer reporting agency shall notify the consumer in writing of a change in the consumer file to the consumer's name, date of birth, social security number

or address. Such notice shall be provided not later than thirty (30) calendar days after the date the change is made. The agency shall send notification of a change to the new address and the former address. Notice shall not be required for an immaterial change, including street abbreviation change or correction of a transposition of numbers or misspelling of a word.

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 consumer reporting agency shall notify any person who requests a consumer or credit report if a security freeze is in effect for the consumer file involved in that report.

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. Upon request by the consumer and with such identification as a consumer reporting agency may require, including the consumer's personal identification number or password provided pursuant to Section 2 of this act, a consumer reporting agency shall remove a security freeze not later than the third business day after the date the agency receives the request.

B. Upon request by the consumer and with such identification as a consumer reporting agency may require, including the consumer's personal identification number or password provided under Section 2 of this act, a consumer reporting agency, not later than the third business day after the date the agency receives the request, shall temporarily lift the security freeze for:

1. A certain properly designated period; or
2. A certain properly identified requester.

C. A consumer reporting agency may develop procedures involving the use of a telephone, a facsimile machine, the Internet, or

another electronic medium to receive and process a request from a consumer under this section.

D. A consumer reporting agency may remove a security freeze placed on a consumer file if the consumer reporting agency determines that the security freeze was placed due to a material misrepresentation of fact by the consumer. The consumer reporting agency shall notify the consumer in writing before removing the security freeze under this subsection.

E. A consumer reporting agency shall not charge a fee for a request made pursuant to subsections A or B of this section.

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 security freeze does not apply to a consumer report provided to:

1. A state or local governmental entity, including a law enforcement agency or court or private collection agency, if the entity, agency, or court is acting under a court order, warrant, subpoena, or administrative subpoena;

2. An agency acting to investigate or collect child support payments or acting under Title IV-D of the Social Security Act (42 U.S.C., Section 651 et seq.);

3. The Oklahoma Tax Commission or a county assessor acting to investigate or collect delinquent taxes or a private collection agency acting pursuant to a contract with the Oklahoma Tax Commission to collect delinquent taxes;

4. A person for the purposes of prescreening as provided by the Fair Credit Reporting Act (15 U.S.C., Section 1681 et seq.), as amended;

5. A person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the person's subsidiary, affiliate, agent, assignee, prospective

assignee, or private collection agency, for purposes related to that account, contract, or instrument;

6. A subsidiary, affiliate, agent or assignee to whom access has been granted under Section 5 of this act;

7. A person who administers a credit file-monitoring subscription service to which the consumer has subscribed;

8. A person for the purpose of providing a consumer with a copy of the consumer's report on the consumer's request;

9. A check service or fraud prevention service company that issues consumer reports:

- a. to prevent or investigate fraud, or
- b. for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment;

10. A deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution; or

11. A consumer reporting agency that:

- a. acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies, and
- b. does not maintain a permanent database of credit information from which new consumer reports are produced.

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 requirement under this act to place a security freeze on a consumer file does not apply to:

1. A check service or fraud prevention service company that issues consumer reports:

- a. to prevent or investigate fraud, or
- b. for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment; or

2. A deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution.

SECTION 8. This act shall become effective November 1, 2006.

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