STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1095 By: Condit

AS INTRODUCED

An Act relating to consumer protection; enacting the Oklahoma Protected Consumer Security Freeze Act; defining terms; outlining exemptions of act; identifying controlling law if conflict exists; allowing person to act on behalf of protected consumer in specific cases; listing acceptable proof of identification; prohibiting use of protected consumer's record for certain purposes; requiring security freeze on a protected consumer's consumer file upon request; directing consumer reporting agency to create a record for the protected consumer; prescribing time period for placement of freeze; proscribing release of consumer report unless freeze is removed; specifying time period for freeze; detailing process for removing freeze; directing removal of freeze within specified time; barring consumer reporting agency from charging fee; providing exception for reasonable fee with maximum amount; allowing removal of freeze if based on material misrepresentation; allowing litigation for violations of act through the Attorney General or district attorney; 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 160.1 of Title 24, unless there is created a duplication in numbering, reads as follows:

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

B. As used in the Oklahoma Protected Consumer Security Freeze Act:

1. "Protected consumer" means an individual who resides in this state and is younger than sixteen (16) years of age at the time a request for the placement of a security freeze is made;

2. "Record" with respect to a protected consumer means a compilation of information identifying a protected consumer created by a consumer reporting agency solely to comply with this act;

3. "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer; and

4. "Security freeze" with respect to a protected consumer means:

a. if a consumer reporting agency does not have a consumer file pertaining to the protected consumer, a restriction that:

(1) is placed on the protected consumer's record in accordance with this act, and

(2) prohibits a consumer reporting agency from releasing a consumer report relating to the extension of credit involving the consumer's record without the express authorization of the

consumer's representative or the consumer, as applicable, or

b. if a consumer reporting agency has a consumer file pertaining to the protected consumer, a restriction that:

(1) is placed on the protected consumer's consumer report in accordance with this act, and

(2) except as otherwise provided by this act, prohibits a consumer reporting agency from releasing the protected consumer's consumer report relating to the extension of credit involving that consumer file, or any information derived from the protected consumer's consumer report.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.2 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Protected Consumer Security Freeze Act shall not apply to the use of a protected consumer's consumer report or record by:

1. A person administering a credit file monitoring subscription service to which:

a. the protected consumer has subscribed, or

b. 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;

3. A consumer reporting agency with respect to a database or file that consists entirely of information concerning, and is used solely for, one or more of the following:

a. criminal history record information,

b. personal loss history information,

c. fraud prevention or detection,

d. tenant screening, or

e. employment screening;

4. 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;

5. 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

6. 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.

B. To the extent of a conflict between a provision of the Oklahoma Protected Consumer Security Freeze Act relating to a protected consumer and another provision of the Oklahoma Statutes, this act controls.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.3 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. Documentation that shows a person has authority to act on behalf of a protected consumer is considered sufficient proof of authority for purposes of the Oklahoma Protected Consumer Security Freeze Act, including:

1. An order issued by a court; or

2. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

B. Information or documentation that identifies a protected consumer or a representative of a protected consumer is considered sufficient proof of identity for purposes of this act, including:

1. A social security number or a copy of the social security card issued by the United States Social Security Administration;

2. A certified or official copy of a birth certificate issued by the State Department of Health;

3. A copy of a driver license or identification card issued by the Department of Public Safety; or

4. Any other government-issued identification.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.4 of Title 24, unless there is created a duplication in numbering, reads as follows:

A protected consumer's record shall not be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, debts, character, general reputation, personal characteristics, or mode of living of a consumer that is used or expected to be used or collected, wholly or partly, as a factor in establishing the consumer's eligibility for credit or insurance for personal, family or household purposes, employment purposes, or for

any purpose authorized under Sections 603 and 604 of the Fair Credit Reporting Act, 15 U.S.C. Sections 1681a and 1681b.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.5 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by subsection B of this section, a consumer reporting agency shall place a security freeze on a protected consumer's consumer file if:

1. The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze as provided by this section; and

2. The protected consumer's representative:

a. submits the request to the consumer reporting agency at the address or other point of contact of and in the manner specified by the consumer reporting agency,

b. provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative,

c. provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer, and

d. pays to the consumer reporting agency a fee as provided by Section 9 of this act.

B. If a consumer reporting agency does not have a consumer file pertaining to a protected consumer when the consumer reporting agency receives a request under subsection A of this section and if the requirements of subsection A of this section are met, the consumer reporting agency shall create a record for the protected consumer and place a security freeze on the protected consumer's record.

C. The consumer reporting agency shall place the security freeze on the protected consumer's consumer file or record, as applicable, not later than the thirtieth day after receiving a request that meets the requirements of subsection A of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.6 of Title 24, unless there is created a duplication in numbering, reads as follows:

Unless a security freeze on a protected consumer's consumer file or record is removed under Section 8 or 10 of this act, a consumer reporting agency shall not release any consumer report relating to the protected consumer, any information derived from the protected consumer's consumer report or any record created for the protected consumer.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.7 of Title 24, unless there is created a duplication in numbering, reads as follows:

A security freeze on a protected consumer's consumer file or record remains in effect until:

1. The protected consumer or the protected consumer's representative requests that the consumer reporting agency remove the security freeze in accordance with Section 8 of this act; or

2. A consumer reporting agency removes the security freeze under Section 10 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.8 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. A protected consumer or a protected consumer's representative may remove a security freeze on a protected consumer's consumer file or record if the protected consumer or representative:

1. Submits a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact of and in the manner specified by the consumer reporting agency;

2. Provides to the consumer reporting agency:

a. in the case of a request by the protected consumer:

(1) sufficient proof of identification of the protected consumer, and

(2) 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

b. in the case of a request by the representative of a protected consumer:

(1) sufficient proof of identification of the protected consumer and the representative, and

(2) sufficient proof of authority to act on behalf of the protected consumer; and

3. Pays to the consumer reporting agency a fee as provided by Section 9 of this act.

B. The consumer reporting agency shall remove the security freeze on the protected consumer's consumer file or record not later than the thirtieth day after the date the agency receives a request that meets the requirements of subsection A of this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.9 of Title 24, unless there is created a duplication in numbering, reads as follows:

A. A consumer reporting agency shall not charge a fee for any service performed under the Oklahoma Protected Consumer Security Freeze Act other than a fee authorized by this section.

B. Except as provided by subsection C of this section, a consumer reporting agency may charge a reasonable fee in an amount not to exceed Ten Dollars ($10.00) for each placement or removal of

a security freeze on the protected consumer's consumer file or record.

C. A consumer reporting agency shall not charge a fee for the placement of a security freeze under this act if:

1. The protected consumer's representative submits to the consumer reporting agency a copy of a valid police report, investigative report, or complaint involving the commission of an offense under Section 1533.1 of Title 21 of the Oklahoma Statutes; or

2. At the time the protected consumer's representative makes the request for a security freeze:

a. the protected consumer is under the age of sixteen (16), and

b. the consumer reporting agency has created a consumer report pertaining to the protected consumer.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.10 of Title 24, unless there is created a duplication in numbering, reads as follows:

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 160.11 of Title 24, unless there is created a duplication in numbering, reads as follows:

A violation of the Oklahoma Protected Consumer Security Freeze Act that results in injury or loss to the residents of this state may be litigated by the Attorney General or a district attorney in the same manner as an unlawful practice under the Oklahoma Consumer Protection Act.

SECTION 12. This act shall become effective November 1, 2015.

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