

SECOND REGULAR SESSION

SENATE BILL NO. 680

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOUGHERTY, WILSON, GRAHAM, KENNEDY AND BRAY.

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TERRY L. SPIELER, Secretary.

3365S.011

AN ACT

To amend chapter 407, RSMo, by adding thereto nine new sections relating to release of personal information to unauthorized persons, with penalty provisions.

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

Section A. Chapter 407, RSMo, is amended by adding thereto nine new sections, to be known as sections 407.1400, 407.1403, 407.1406, 407.1409, 407.1412, 407.1415, 407.1418, 407.1421, and 407.1424, to read as follows:

407.1400. As used in sections 407.1400 to 407.1424 the following terms mean:

(1) "Breach of security of the system", unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the business or person. Good faith acquisition of personal information by an employee or agent of the business for the purposes of the business shall not be considered a breach of security of the system, provided that the personal information is not used or subject to further unauthorized disclosure;

(2) "Personal information", an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number;

(c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. "Personal information" does not include publicly available

21 information that is lawfully made available to the general public from
22 federal, state, or local government records;

23 (3) "Proper identification", any document that identifies an
24 individual and may include but not be limited to, the individual's
25 photograph, social security number, driver's identification number,
26 name, address, and telephone number;

27 (4) "Security alert", a notice placed in a consumer's credit report,
28 at the request of the consumer, that notifies a recipient of the credit
29 report that the consumer's identity may have been used without the
30 consumer's consent to fraudulently obtain goods or services in the
31 consumer's name;

32 (5) "Security freeze", a notice placed in a consumer's credit
33 report, at the request of the consumer and subject to certain
34 exceptions, that prohibits the consumer credit reporting agency from
35 releasing the consumer's credit report or any information from it
36 without the express authorization of the consumer.

407.1403. 1. Except as otherwise allowed by state or federal law,
2 or unless valid consent has been provided as it is established in this
3 section, financial institutions, their officers, employees, agents, and
4 directors shall not disclose to any person any financial information
5 relating to a customer.

6 2. A governmental agency or law enforcement agency may obtain
7 customer information from a financial institution pursuant to a judicial
8 or administrative subpoena duces tecum served on the financial
9 institution, if there is reason to believe that the customer information
10 sought is relevant to a proper law enforcement objective or is
11 otherwise authorized by law.

12 3. A governmental agency or law enforcement agency may obtain
13 customer information from a financial institution pursuant to a search
14 warrant if it obtains the search warrant under the rules of criminal
15 procedure of this state.

16 4. No consent or waiver shall be required as a condition of doing
17 business with any financial institution, and any consent or waiver
18 obtained from a customer as a condition of doing business with a
19 financial institution shall not be deemed valid consent from the
20 customer for the purpose of this section.

21 5. Valid consent shall be in writing and signed by the customer

22 and proper identification shall be provided to the financial institution
23 at the time the customer signs off on such consent. In consenting to
24 disclosure of customer information, a customer may specify any of the
25 following:

- 26 (1) The time during which such consent will operate;
- 27 (2) The customer information to be disclosed; and
- 28 (3) The persons, government agencies, or law enforcement
29 agencies to which disclosure can be made.

407.1406. 1. Any person or business that conducts business in
2 this state and that owns or licenses computerized data that includes
3 personal information, shall disclose any breach of the security of the
4 system following discovery or notification of the breach. Notification
5 shall be made to any resident of the state whose encrypted personal
6 information was, or is reasonably believed to have been, acquired by an
7 unauthorized person. The disclosure shall be made in the most
8 expedient time possible, but no more than thirty days after such breach
9 has been discovered.

10 2. The notification required by this section may be delayed if a
11 law enforcement agency determines that the notification will impede
12 a criminal investigation.

13 3. For purposes of this section, notification may be provided by
14 one of the following methods:

- 15 (1) Written notice;
- 16 (2) Electronic notice, if the notice provided is consistent with the
17 provisions regarding electronic records and signatures set forth in
18 Section 7001 of Title 15 of the United States Code;
- 19 (3) Substitute notification, if the agency demonstrates that the
20 cost of providing notice would exceed two hundred fifty thousand
21 dollars, that the affected class of subject persons to be notified exceeds
22 five hundred thousand, or the agency does not have sufficient contact
23 information. Substitute notification shall consist of all of the
24 following:

- 25 (a) E-mail notice when the agency has an e-mail address for the
26 subject persons;
- 27 (b) Conspicuous posting of the notice on the agency's website, if
28 the agency maintains one; and
- 29 (c) Notification to major statewide media.

30 4. An agency that maintains its own notification procedures as
31 part of an information security policy for the treatment of personal
32 information and is otherwise consistent with the timing requirements
33 of this section shall be deemed to be in compliance with the notification
34 requirements of this section if it notifies subject persons in accordance
35 with its policies in the event of a breach of security of the system.

36 5. Any person or business who violates the provisions of this
37 section shall be guilty of a class A misdemeanor and, upon conviction,
38 shall be punished by a fine of up to one thousand dollars for each and
39 every act or violation, by imprisonment in the county jail for a term not
40 to exceed one year, or by both at the discretion of the court.

 407.1409. 1. A consumer may elect to place a security alert in his
2 or her credit report by making a request in writing or by telephone to
3 a consumer credit reporting agency.

4 2. A consumer credit reporting agency shall notify each person
5 requesting consumer credit information with respect to a consumer of
6 the existence of a security alert in the credit report of that consumer,
7 regardless of whether a full credit report, credit score, or summary
8 report is requested.

9 3. Each consumer credit reporting agency shall maintain a toll-
10 free telephone number to accept security alert requests from consumers
11 twenty-four hours a day, seven days a week.

12 4. The toll-free telephone number shall be included in any
13 written disclosure by a consumer credit reporting agency to any
14 consumer under section 407.1424 and shall be printed in a clear and
15 conspicuous manner.

16 5. A consumer credit reporting agency shall place a security
17 alert on a consumer's credit report no later than five business days
18 after receiving a request from the consumer.

19 6. The security alert shall remain in place for at least ninety
20 days, and a consumer shall have the right to request a renewal of the
21 security alert.

22 7. If a consumer has placed a security alert, a consumer credit
23 reporting agency shall provide the consumer, upon request, with a free
24 copy of his or her credit report at the time the ninety-day security alert
25 period expires.

 407.1412. 1. A consumer may elect to place a security freeze on

2 his or her credit report by making a request in writing by certified
3 mail to a consumer credit reporting agency. If a security freeze is in
4 place, information from a consumer's credit report may not be released
5 to a third party without prior express authorization from the
6 consumer. This subsection does not prevent a consumer credit
7 reporting agency from advising a third party that a security freeze is
8 in effect with respect to the consumer's credit report.

9 2. A consumer credit reporting agency shall place a security
10 freeze on a consumer's credit report no later than five business days
11 after receiving a written request from the consumer.

12 3. The consumer credit reporting agency shall send a written
13 confirmation of the security freeze to the consumer within ten business
14 days and shall provide the consumer with a unique personal
15 identification number or password to be used by the consumer when
16 providing authorization for the release of his or her credit for a
17 specific party or period of time.

18 4. If the consumer wishes to allow his or her credit report to be
19 accessed for a specific party or period of time while a freeze is in place,
20 he or she shall contact the consumer credit reporting agency, request
21 that the freeze be temporarily lifted, and provide the following:

22 (1) Proper identification;

23 (2) The unique personal identification number or password
24 provided by the credit reporting agency to the consumer.

25 (3) The proper information regarding the third party who is to
26 receive the credit report or the time period for which the report shall
27 be available to users of the credit report.

28 5. A consumer credit reporting agency that receives a request
29 from a consumer to temporarily lift a freeze on a credit report pursuant
30 to subsection 4 of this section, shall comply with the request no later
31 than three business days after receiving the request.

32 6. A consumer credit reporting agency may develop procedures
33 involving the use of telephone, fax, the Internet, or other electronic
34 media to receive and process a request from a consumer to temporarily
35 lift a freeze on a credit report pursuant to subsection 4 of this section
36 in an expedited manner.

37 7. A consumer credit reporting agency shall remove or
38 temporarily lift a freeze placed on a consumer's credit report only in

39 the following cases:

40 (1) Upon consumer request, pursuant to subsection 4 or 10 of this
41 section;

42 (2) If the consumer's credit report was frozen due to a material
43 misrepresentation of fact by the consumer. If a consumer credit
44 reporting agency intends to remove a freeze upon a consumer's credit
45 report pursuant to this subdivision, the consumer credit reporting
46 agency shall notify the consumer in writing prior to removing the
47 freeze on the consumer's credit report.

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

54 9. If a consumer requests a security freeze, the consumer credit
55 reporting agency shall disclose the process of placing and temporarily
56 lifting a freeze, and the process for allowing access to information from
57 the consumer's credit report for a specific party or period of time while
58 the freeze is in place.

59 10. A security freeze shall remain in place until the consumer
60 requests that the security freeze be removed. A consumer credit
61 reporting agency shall remove a security freeze within three business
62 days of receiving a request for removal from the consumer, who
63 provides both of the following:

64 (1) Proper identification;

65 (2) The unique personal identification number or password
66 provided by the credit reporting agency to the consumer.

67 11. The provisions of this section do not apply to the use of a
68 consumer credit report by any of the following:

69 (1) A person or entity, or a subsidiary, affiliate, or agent of that
70 person or entity, or an assignee of a financial obligation owing by the
71 consumer to that person or entity, or a prospective assignee of a
72 financial obligation owing by the consumer to that person or entity in
73 conjunction with the proposed purchase of the financial obligation,
74 with which the consumer has or had prior to assignment an account or
75 contract, including a demand deposit account, or to whom the

76 consumer issued a negotiable instrument, for the purposes of reviewing
77 the account or collecting the financial obligation owing for the account,
78 contract, or negotiable instrument. For purposes of this paragraph,
79 "reviewing the account" includes activities related to account
80 maintenance, monitoring, credit line increases, and account upgrades
81 and enhancements;

82 (2) A subsidiary, affiliate, agent, assignee, or prospective
83 assignee of a person to whom access has been granted under
84 subdivision (3) of subsection 4 of this section for purposes of
85 facilitating the extension of credit or other permissible use;

86 (3) Any state or local agency, law enforcement agency, trial
87 court, or private collection agency acting pursuant to a court order,
88 warrant, or subpoena;

89 (4) A child support agency;

90 (5) The department of health and senior services or its agents or
91 assigns acting to investigate Medicaid fraud;

92 (6) The state tax commission or its agents or assigns acting to
93 investigate or collect delinquent taxes or unpaid court orders or to
94 fulfill any of its other statutory responsibilities;

95 (7) The use of credit information for the purposes of
96 prescreening as provided for by the federal Fair Credit Reporting Act;

97 (8) Any person or entity administering a credit file monitoring
98 subscription service to which the consumer has subscribed;

99 (9) Any person or entity for the purpose of providing a consumer
100 with a copy of his or her credit report upon the consumer's request.

101 12. This act does not prevent a consumer credit reporting agency
102 from charging a fee of no more than ten dollars to a consumer for each
103 freeze, removal of the freeze, or temporary lift of the freeze for a period
104 of time, or a fee of no more than twelve dollars for a temporary lift of
105 a freeze for a specific party, regarding access to a consumer credit
106 report, except that a consumer credit reporting agency may not charge
107 a fee to a victim of identity theft who has submitted a valid police
108 report.

407.1415. If a security freeze is in place, a consumer credit
2 reporting agency shall not change any of the following official
3 information in a consumer credit report without sending a written
4 confirmation of the change to the consumer within thirty days of the

5 change being posted to the consumer's file: name, date of birth, social
6 security number, and address. Written confirmation is not required for
7 technical modifications of a consumer's official information, including
8 name and street abbreviations, complete spellings, or transposition of
9 numbers or letters. In the case of an address change, the written
10 confirmation shall be sent to both the new address and to the former
11 address.

407.1418. The provisions of sections 407.1406 to 407.1415 do not
2 apply to a consumer credit reporting agency that acts only as a reseller
3 of credit information by assembling and merging information contained
4 in the data base of another consumer credit reporting agency or
5 multiple consumer credit reporting agencies, and does not maintain a
6 permanent data base of credit information from which new consumer
7 credit reports are produced. However, a consumer credit reporting
8 agency shall honor any security freeze placed on a consumer credit
9 report by another consumer credit reporting agency.

407.1421. The following entities are not required to place in a
2 credit report either a security alert or a security freeze:

3 (1) A check services or fraud prevention services company,
4 which issues reports on incidents of fraud or authorizations for the
5 purpose of approving or processing negotiable instruments, electronic
6 funds transfers, or similar methods of payments;

7 (2) A deposit account information service company, which issues
8 reports regarding account closures due to fraud, substantial overdrafts,
9 ATM abuse, or similar negative information regarding a consumer, to
10 inquiring banks or other financial institutions for use only in reviewing
11 a consumer request for a deposit account at the inquiring bank or
12 financial institution.

407.1424. 1. A consumer credit reporting agency shall supply
2 files and information required during normal business hours and on
3 reasonable notice. In addition to the disclosure provided by this
4 chapter and any disclosures received by the consumer, the consumer
5 has the right to request and receive all of the following:

6 (1) Either a decoded written version of the file or a written copy
7 of the file, including all information in the file at the time of the
8 request, with an explanation of any code used;

9 (2) A credit score for the consumer, the key factors, and the

10 related information, as defined in and required by this subsection;

11 (3) A record of all inquiries, by recipient, which result in the
12 provision of information concerning the consumer in connection with
13 a credit transaction that is not initiated by the consumer and which
14 were received by the consumer credit reporting agency in the twelve-
15 month period immediately preceding the request for disclosure under
16 this section;

17 (4) The recipients, including end users of any consumer credit
18 report on the consumer which the consumer credit reporting agency
19 has furnished:

20 (a) For employment purposes within the two-year period
21 preceding the request;

22 (b) For any other purpose within the twelve-month period
23 preceding the request.

24 2. Files maintained on a consumer shall be disclosed by a
25 consumer credit reporting agency promptly as follows:

26 (1) In person, at the location where the consumer credit
27 reporting agency maintains trained personnel, if the consumer appears
28 in person and furnishes proper identification;

29 (2) By mail, if the consumer makes a written request with proper
30 identification for a copy of the file or a decoded written version of that
31 file to be sent to the consumer at a specified address. A disclosure
32 pursuant to this subdivision shall be deposited in the United States
33 mail, postage prepaid, within five business days after the consumer's
34 written request for the disclosure is received by the consumer credit
35 reporting agency. Consumer credit reporting agencies complying with
36 requests for mailings under this section shall not be liable for
37 disclosures to third parties caused by mishandling of mail after the
38 mailings leave the consumer credit reporting agencies;

39 (3) A summary of all information contained in files on a
40 consumer and required to be provided shall be provided by telephone,
41 if the consumer has made a written request, with proper identification
42 for telephone disclosure;

43 (4) Information in a consumer's file required to be provided in
44 writing under this section may also be disclosed in another form if
45 authorized by the consumer and if available from the consumer credit
46 reporting agency. For this purpose a consumer may request disclosure

47 in person by telephone upon disclosure of proper identification by the
48 consumer, by electronic means if available from the consumer credit
49 reporting agency, or by any other reasonable means that is available
50 from the consumer credit reporting agency.

51 (5) Only if the consumer is unable to reasonably identify himself
52 or herself with the information described above, may a consumer credit
53 reporting agency require additional information concerning the
54 consumer's employment and personal or family history in order to
55 verify his or her identity.

56 3. The consumer credit reporting agency shall provide trained
57 personnel to explain to the consumer any information furnished him or
58 her.

59 4. The consumer shall be permitted to be accompanied by one
60 other person of his or her choosing during any meeting with trained
61 personnel to discuss the consumer's credit report or related
62 information, provided such person, furnishes proper identification. A
63 consumer credit reporting agency may require the consumer to furnish
64 a written statement granting permission to the consumer credit
65 reporting agency to discuss the consumer's file in that person's
66 presence;

67 5. Any written disclosure by a consumer credit reporting agency
68 to any consumer pursuant to this section shall include a written
69 summary of all rights the consumer has under this section and in the
70 case of a consumer credit reporting agency which compiles and
71 maintains consumer credit reports on a nationwide basis, a toll-free
72 telephone number which the consumer can use to communicate with
73 the consumer credit reporting agency. The written summary of rights
74 required under this subdivision is sufficient if in substantially the
75 following form:

76 "You have a right to obtain a copy of your credit file
77 from a consumer credit reporting agency. You may be
78 charged a reasonable fee not exceeding eight dollars
79 (\$8). There is no fee, however, if you have been turned
80 down for credit, employment, insurance, or a rental
81 dwelling because of information in your credit report
82 within the preceding 60 days. The consumer credit
83 reporting agency must provide someone to help you

84 interpret the information in your credit file.

85 You have a right to dispute inaccurate information
86 by contacting the consumer credit reporting agency
87 directly. However, neither you nor any credit repair
88 company or credit service organization has the right to
89 have accurate, current, and verifiable information
90 removed from your credit report. Under the Federal Fair
91 Credit Reporting Act, the consumer credit reporting
92 agency must remove accurate, negative information from
93 your report only if it is over seven years old. Bankruptcy
94 information can be reported for 10 years.

95 If you have notified a consumer credit reporting
96 agency in writing that you dispute the accuracy of
97 information in your file, the consumer credit reporting
98 agency must then, within 30 business days, reinvestigate
99 and modify or remove inaccurate information. The
100 consumer credit reporting agency may not charge a fee for
101 this service. Any pertinent information and copies of all
102 documents you have concerning an error should be given
103 to the consumer credit reporting agency.

104 If reinvestigation does not resolve the dispute to
105 your satisfaction, you may send a brief statement to the
106 consumer credit reporting agency to keep in your file,
107 explaining why you think the record is inaccurate. The
108 consumer credit reporting agency must include your
109 statement about disputed information in a report it issues
110 about you.

111 You have a right to receive a record of all inquiries
112 relating to a credit transaction initiated in 12 months
113 preceding your request. This record shall include the
114 recipients of any consumer credit report.

115 You may request in writing that the information
116 contained in your file not be provided to a third party for
117 marketing purposes. You have a right to place a "security
118 alert" in your credit report, which will warn anyone who
119 receives information in your credit report that your
120 identity may have been used without your

121 consent. Recipients of your credit report are required to
122 take reasonable steps, including contacting you at the
123 telephone number you may provide with your security
124 alert, to verify your identity prior to lending money,
125 extending credit, or completing the purchase, lease, or
126 rental of goods or services. The security alert may prevent
127 credit, loans, and services from being approved in your
128 name without your consent. However, you should be aware
129 that taking advantage of this right may delay or interfere
130 with the timely approval of any subsequent request or
131 application you make regarding a new loan, credit,
132 mortgage, insurance, rental housing, employment,
133 investment, license, cellular phone, utilities, digital
134 signature, Internet credit card transaction, or other
135 services, including an extension of credit at point of sale.
136 If you place a security alert on your credit report, you
137 have a right to obtain a free copy of your credit report at
138 the time the 90-day security alert period expires. A
139 security alert may be requested by calling the following
140 toll-free telephone number: (Insert applicable toll-free
141 telephone number).

142 You have a right to place a "security freeze" on your
143 credit report, which will prohibit a consumer credit
144 reporting agency from releasing any information in your
145 credit report without your express authorization. A
146 security freeze must be requested in writing by certified
147 mail. The security freeze is designed to prevent credit,
148 loans, and services from being approved in your name
149 without your consent. However, you should be aware that
150 using a security freeze to take control over who gets access
151 to the personal and financial information in your credit
152 report may delay, interfere with, or prohibit the timely
153 approval of any subsequent request or application you
154 make regarding a new loan, credit, mortgage, insurance,
155 government services or payments, rental housing,
156 employment, investment, license, cellular phone, utilities,
157 digital signature, Internet credit card transaction, or other

158 services, including an extension of credit at point of
159 sale. When you place a security freeze on your credit
160 report, you will be provided a personal identification
161 number or password to use if you choose to remove the
162 freeze on your credit report or authorize the release of
163 your credit report for a specific party or period of time
164 after the freeze is in place. To provide that authorization
165 you must contact the consumer credit reporting agency
166 and provide all of the following:

- 167 (1) The personal identification number or password;
168 (2) Proper identification to verify your identity;
169 (3) The proper information regarding the third
170 party who is to receive the credit report or the period of
171 time for which the report shall be available.

172 A consumer credit reporting agency must authorize
173 the release of your credit report no later than three
174 business days after receiving the above information.

175 A security freeze does not apply to a person or
176 entity, or its affiliates, or collection agencies acting on
177 behalf of the person or entity, with which you have an
178 existing account, that requests information in your credit
179 report for the purposes of reviewing or collecting the
180 account. Reviewing the account includes activities related
181 to account maintenance, monitoring, credit line increases,
182 and account upgrades and enhancements.

183 You have a right to bring civil action against anyone,
184 including a consumer credit reporting agency, who
185 improperly obtains access to a file, knowingly or willfully
186 misuses file data, or fails to correct inaccurate file data.".

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