STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

April 3, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on April 3, 2018:

HB 2036 substitute teachers; experience; certification (Carter)
HB 2097 pension funding policies; employers (Livingston)
HB 2169 driving violations; restricted licenses; penalties (Boyer)
HB 2198 property tax; delinquent tax list (Shope)
HB 2245 prohibited bail; sexual conduct; molestation (Farnsworth, E.)
HB 2272 unmanned aircraft; emergencies; immunity (Thorpe)
HB 2302 private postsecondary regulation; opt-in (Thorpe)
HB 2421 national guard; employment rights (Andrade)
HB 2457 corporation commission; database fee; prohibited (Norgaard)
HB 2561 schools; civics literacy state seal (Boyer)
HB 2591 fallen correctional employees memorial; extension (Shope)
HB 2603 corporations; blockchain technology (Weninger)
SB 1110 photo radar; review; penalty (Borrelli)
SB 1159 school employees; contracts; revisions (Allen, S.)
SB 1163 credit security freezes; fees; prohibition (Brophy McGee)
SB 1240 weights and measures; duties; systems (Pratt)
SB 1376 landlord tenant act; personal property (Griffin)
SB 1393 dissolution; human embryos; disposition (Barto)
SB 1432 ranchers; landowners; fire training (Griffin)

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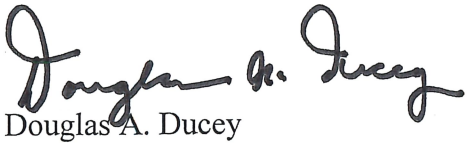
Sincerely,



Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 125

SENATE BILL 1163

AN ACT

AMENDING SECTIONS 44-1698 AND 44-1698.02, ARIZONA REVISED STATUTES; RELATING TO CREDIT SECURITY FREEZES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 44-1698, Arizona Revised Statutes, is amended to read:

44-1698. Security freeze on credit reports and credit scores; fees prohibited; definitions

A. A consumer may request in writing or in a form acceptable to the consumer reporting agency that a consumer reporting agency place a security freeze on the consumer's credit report. If a security freeze is in place, a consumer reporting agency shall not release a consumer's credit report or consumer's credit score to a third party without the consumer's prior express authorization. This subsection does not prevent a consumer reporting agency from advising a specific party that a security freeze is in effect with respect to the consumer's credit report.

B. A consumer reporting agency shall place a security freeze on a consumer's credit report not later than ten business days after receiving a written request from the consumer.

C. The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within ten business days after placing the security freeze on the consumer's credit report and shall provide the consumer with a unique personal identification number or password, other than the consumer's social security number, that the consumer may use to provide authorization for the release of the consumer's credit report for a specific period of time and to remove the security freeze.

D. A security freeze remains in effect until the consumer requests that the security freeze be removed or temporarily lifted as provided in this section. A consumer may request that a security freeze be removed or temporarily lifted by mail, telephone, internet or other electronic contact method in a form acceptable to the consumer reporting agency. A consumer reporting agency shall require proper identification of any person who makes a request to place or remove a security freeze.

E. On requesting removal, the consumer shall provide the following information:

1. Proper identification.

2. The unique personal identification number or password that the consumer reporting agency provided to the consumer.

F. On requesting a temporary lift to allow a credit report to be accessed for a specific period of time, the consumer shall contact the consumer reporting agency and shall request that the security freeze be temporarily lifted and shall provide the following information:

1. Proper identification.

2. The unique personal identification number or password that the consumer reporting agency provided to the consumer.

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

G. A consumer reporting agency shall remove or temporarily lift a security freeze from a consumer's credit report within:

1. Three business days after receiving the consumer's request for the removal or temporary lift by mail.

2. Fifteen minutes after receiving the consumer's request through the use of telephone, internet or other electronic contact method in a form acceptable to the consumer reporting agency, during normal business hours. The consumer reporting agency is not required to remove or temporarily lift the security freeze within the fifteen minute time limit if the agency's ability is prevented by any of the following:

(a) An act of God, including fire, earthquakes, hurricanes, storms or similar natural disaster or phenomena.

(b) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations or similar occurrence.

(c) Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time or similar disruption.

(d) Governmental action, including emergency orders or regulations, judicial or law enforcement action or similar directives.

(e) Regularly scheduled maintenance, during other than normal business hours of, or updates to, the consumer reporting agency's systems.

(f) Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

(g) Receipt of a removal or temporary lift request outside of normal business hours.

H. A consumer reporting agency shall remove or temporarily lift a security freeze placed on a consumer's credit report only in the following cases:

1. If the consumer requests removal pursuant to subsection E OF THIS SECTION or a temporary lift pursuant to subsection F OF THIS SECTION.

2. If the consumer's credit report was frozen as a result of a material misrepresentation of fact. If a consumer reporting agency intends to remove a security freeze on a consumer's credit report pursuant to this paragraph, the consumer reporting agency shall notify by mail, telephone, internet or other electronic contact method the consumer before removing the security freeze on the consumer's credit report.

I. When a consumer requests a security freeze, the consumer reporting agency shall disclose the process for placing and for removing or temporarily lifting a freeze and the process for allowing access to information from the consumer's credit report for a specific period of time while the security freeze is in place.

J. If a third party requests access to a credit report on which a security freeze is in effect, the request is in connection with an

application for credit or any other use and the consumer does not allow the consumer's credit report to be accessed for a specific period of time, the third party may treat the application as incomplete.

K. A consumer reporting agency may NOT charge a ~~five dollar~~ fee for ~~each~~ A security freeze, removal of the freeze or temporary lift of the freeze for a period of time on the consumer's credit report. ~~A consumer reporting agency shall not charge a fee to a victim of identity theft who submits a valid police report that alleges a violation of section 13-2008, 13-2009 or 13-2010.~~

L. A consumer reporting agency may NOT charge a ~~five dollar~~ fee if the consumer fails to retain the original unique personal identification number or password provided by the consumer reporting agency and the consumer reporting agency must reissue the unique personal identification number or password or provide a new unique personal identification number or password to the consumer.

M. If a security freeze is in place, a consumer reporting agency shall not change a consumer's name, date of birth, social security number or address in the consumer's credit report without sending a written confirmation of the change to the consumer within thirty days after the change is posted to the consumer's file. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings or transposition of numbers or letters. For the purposes of address changes, the consumer reporting agency shall send the written confirmation to both the new address and the former address.

N. This section does not apply to the use of a credit report or credit score by any of the following:

1. A person, a subsidiary, affiliate, agent or subcontractor of that person, an assignee of a financial obligation owed by the consumer to that person or a prospective assignee of a financial obligation owed by the consumer to that person in conjunction with the proposed purchase of the financial obligation with which the consumer has or had before 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 the purposes of this paragraph, "reviewing the account" includes activities that are 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 under this section for the purpose 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 25, chapter 3, article 2 or title IV-D of the social security act.

5. The department of health services or its agents or assigns acting to investigate fraud.

6. The department of revenue or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

7. The department of transportation or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

8. The administrative office of the courts to conduct audits or investigate fraud or for applicant screening.

9. Any agency or entity for the purposes of prescreening or postscreening as provided for by the federal fair credit reporting act (15 United States Code section 1681b).

10. Any person or entity that administers a credit file monitoring subscription service to which the consumer has subscribed.

11. Any person or entity for the purpose of providing a consumer with a copy of the consumer's credit report or consumer's credit score on the consumer's request.

12. Except as otherwise provided by law, a person setting or adjusting a rate or claim or underwriting for insurance purposes.

13. Any person who uses a consumer reporting agency's database or file that consists entirely of information concerning, and is used solely for, one or more of the following:

(a) Criminal record information.

(b) Fraud prevention or detection.

(c) Tenant screening.

(d) Employment screening.

14. Any state or federally regulated bank or financial institution for checking, savings and investment accounts.

O. The following entities are not required to place a security freeze on a credit report:

1. A check services or fraud prevention services company that 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.

2. A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse or similar negative information regarding a consumer to inquiring banks or financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

3. 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 that does not maintain a permanent database of credit information from which new credit reports or credit scores are produced.

P. An act or practice in violation of this section is an unlawful practice under section 44-1522 and is subject to enforcement through a private action and by the attorney general. Injunctive relief may be sought to prevent future violations of this section. The remedies provided in this section are not intended to be the exclusive remedies available to a consumer. This subsection does not apply to subsection G, paragraph 2 of this section.

Q. For the purposes of this section:

1. "Proper identification" means information that is generally deemed to be sufficient to identify a person under the circumstances.

2. "Security freeze" means a notice that is placed in a consumer's credit report at the request of the consumer and that prohibits the consumer reporting agency from releasing the consumer's credit report without the express authorization of the consumer.

Sec. 2. Section 44-1698.02, Arizona Revised Statutes, is amended to read:

44-1698.02. <u>Security freezes; credit reports; protected person; fee prohibited; definitions</u>

A. A consumer reporting agency shall place a security freeze on a protected person's record or credit report if both of the following apply:

1. The consumer reporting agency receives a request from the protected person's representative for the placement of the security freeze.

2. The protected person's representative does all of the following:

(a) 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.

(b) Provides to the consumer reporting agency sufficient proof of identification of the protected person and the representative.

(c) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected person.

~~(d) Pays to the consumer reporting agency a fee as prescribed in subsection H of this section.~~

B. If a consumer reporting agency does not have a file pertaining to a protected person when the consumer reporting agency receives a request pursuant to subsection A, paragraph 1 of this section, the consumer reporting agency shall create a record for the protected person.

C. Within thirty days after receiving a request pursuant to this section, a consumer reporting agency shall place a security freeze on the protected person's record or credit report.

D. Unless a security freeze is removed pursuant to subsection F or ~~J~~ I of this section, a consumer reporting agency may not release the protected person's credit report, any information derived from the protected person's credit report or any record created for the protected person.

E. A security freeze that is placed on a protected person's record or credit report ~~placed~~ under this section remains in effect until either:

1. The protected person or the protected person's representative requests that the consumer reporting agency remove the security freeze pursuant to subsection F of this section.

2. The security freeze is removed pursuant to subsection ~~J~~ I of this section.

F. To remove a security freeze for a protected person, the protected person or the protected person's representative shall 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 ~~and pay a fee as prescribed in subsection H of this section~~. In addition:

1. If the protected person requested the removal of the security freeze, the protected person shall provide to the consumer reporting agency either of the following:

(a) Proof that the protected person's representative no longer has sufficient proof of authority to act on behalf of the protected person.

(b) Sufficient proof of identification of the protected person.

2. If the protected person's representative requested the removal of the security freeze on behalf of the protected person, the protected person's representative shall provide to the consumer reporting agency both of the following:

(a) Sufficient proof of identification of the protected person and the representative.

(b) Sufficient proof of authority to act on behalf of the protected person.

G. Within thirty days after receiving a request to remove a security freeze placed pursuant to subsection A of this section, the consumer reporting agency shall remove the security freeze for the protected person.

H. A consumer reporting agency may NOT charge a ~~five dollar~~ fee for each placement or removal of a security freeze on a protected person's record or credit report.

~~I. Notwithstanding subsection H of this section, a consumer reporting agency may not charge any fee under this section if either of the following applies:~~

~~1. The protected person's representative provides a copy of a police report to the consumer reporting agency alleging that the protected~~

~~person has been a victim of an offense involving a violation of section 13-2008 or 13-2009.~~

~~2. A request for the placement or removal of a security freeze is for a protected person who is under sixteen years of age at the time of the request and the consumer reporting agency has a credit report pertaining to the protected person.~~

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

~~K.~~ J. An act or practice in violation of this section is an unlawful practice under section 44-1522 and is subject to enforcement through a private action and by the attorney general. The attorney general may investigate and take appropriate action as prescribed by chapter 10, article 7 of this title. The remedies provided in this section are not intended to be the exclusive remedies available to a protected person.

~~L.~~ K. This section does not apply to the use of a protected person's credit report or record by any of the following:

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

(a) The protected person has subscribed.

(b) The protected person's representative has subscribed on behalf of the protected person.

2. A person providing the protected person or the protected person's representative with a copy of the protected person's credit report on the request of the protected person or the protected person's representative.

3. A check services or fraud prevention services company that issues either:

(a) Reports on incidents of fraud.

(b) Authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers or similar payment methods.

4. A deposit account information service company that issues reports relating to account closures due to fraud, substantial overdrafts, automated teller machine abuse or similar negative information about a protected person to inquiring banks or other financial institutions for use only in reviewing a protected ~~person~~ PERSON'S request for a deposit account at the inquiring bank or financial institution.

5. An insurance company for the purpose of conducting its ordinary business.

6. A consumer reporting agency that both:

(a) Acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency.

(b) Does not maintain a permanent database of credit information from which new credit reports are produced.

7. A consumer reporting agency's database or file that consists of information concerning and used for one or more of the following, but not for credit granting, purposes:

(a) Criminal record information.

(b) Fraud prevention or detection.

(c) Personal loss history information.

(d) Employment, tenant or individual background screening.

8. A governmental entity when carrying out its duties.

9. A person, a subsidiary, affiliate, agent or subcontractor of that person, an assignee of a financial obligation owed by the protected person to that person or a prospective assignee of a financial obligation owed by the protected person to that person in conjunction with the proposed purchase of the financial obligation with which the protected person has or had before assignment an account or contract, including a demand deposit account, or to whom the protected person 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 the purposes of this paragraph, "reviewing the account" includes activities that are related to account maintenance, monitoring, credit line increases and account upgrades and enhancements.

~~M.~~ L. For the purposes of this section:

1. "Protected person" means an individual who is under sixteen years of age at the time a request for the placement of a security freeze is made or who is an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

2. "Record" means a compilation of information to which all of the following apply:

(a) The record identifies a protected person.

(b) The record is created by a consumer reporting agency solely for the purpose of complying with this section.

(c) The record is not created or used to consider the protected person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.

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

4. "Security freeze" means:

(a) If a consumer reporting agency does not have a file pertaining to a protected person, a restriction that is placed on the protected

person's record and that prohibits the consumer reporting agency from releasing the protected person's record.

(b) If a consumer reporting agency has a file pertaining to the protected person, a restriction that is placed on the protected person's credit report and that prohibits the consumer reporting agency from releasing the protected person's credit report or any information derived from the protected person's credit report.

5. "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected person and includes:

(a) A court order.

(b) A lawfully executed and valid power of attorney.

(c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected person.

6. "Sufficient proof of identification" means information or documentation that identifies a protected person or a representative of a protected person and includes:

(a) A social security number or a social security card issued by the social security administration.

(b) A certified or official copy of a birth certificate issued by the department of health services.

(c) A driver license or a nonoperating identification license issued by the department of transportation pursuant to title 28, chapter 8 or any other government issued identification.

APPROVED BY THE GOVERNOR APRIL 3, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2018

Passed the House March 28, 2018 by the following vote: 58 Ayes, 0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 15, 2018, by the following vote: 29 Ayes, 0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 29th day of March, 2018, at 10:29 o'clock A. M.

Secretary to the Governor

Approved this 3rd day of April, 2018, at 2:00 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 3 day of April, 2018, at 4:12 o'clock P. M.

Michele Reagan
Secretary of State

S.B. 1163