

1 AN ACT relating to credit freezes for protected consumers.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS 367.363 TO 367.365 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) For the purposes of this section:*

6 *(a) "Protected person" means an individual who is under sixteen (16) years of*
7 *age at the time a request for the placement of a security freeze is made, or*
8 *who is an incapacitated person or other person for whom a guardian or*
9 *conservator has been appointed;*

10 *(b) "Record" means a compilation of information which:*

11 *1. Identifies a protected person;*

12 *2. Is created by a consumer reporting agency solely for the purpose of*
13 *complying with this section; and*

14 *3. Is not created or used to consider the protected person's*
15 *creditworthiness, credit standing, credit capacity, character, general*
16 *reputation, personal characteristics, or mode of living;*

17 *(c) "Representative" means a person who provides to a consumer reporting*
18 *agency sufficient proof of authority to act on behalf of a protected person;*
19 *and*

20 *(d) "Sufficient proof of authority" means documentation that shows a*
21 *representative has authority to act on behalf of a protected person,*
22 *including but not limited to:*

23 *1. A court order granting custodianship, guardianship, or*
24 *conservatorship;*

25 *2. A birth certificate;*

26 *3. A lawfully executed and valid power of attorney; or*

27 *4. A written, notarized statement signed by a representative that expressly*

1 describes the authority of the representative to act on behalf of a
2 protected person.

3 (2) A consumer reporting agency shall place a security freeze on a protected person's
4 record or credit report if:

5 (a) The consumer reporting agency receives a request from the protected
6 person's representative for the placement of the security freeze; and

7 (b) The protected person's representative:

8 1. Submits the request to the consumer reporting agency at the address
9 designated by the consumer reporting agency to receive the request;

10 2. Provides to the consumer reporting agency clear and proper
11 identification of the protected person and the representative;

12 3. Provides to the consumer reporting agency sufficient proof of
13 authority to act on behalf of the protected person; and

14 4. Pays to the consumer reporting agency a fee as prescribed in
15 subsection (8) of this section.

16 (3) If a consumer reporting agency does not have a file pertaining to a protected
17 person when the consumer reporting agency receives a request pursuant to
18 subsection (2) of this section, the consumer reporting agency shall create a record
19 for the protected person.

20 (4) Within thirty (30) days after receiving a request pursuant to this section, a
21 consumer reporting agency shall place a security freeze on the protected person's
22 record or credit report.

23 (5) Unless a security freeze is removed pursuant to subsection (7) or (10) of this
24 section, a consumer reporting agency may not release the protected person's
25 credit report, any information derived from the protected person's credit report,
26 or any record created for the protected person.

27 (6) A security freeze that is placed on a protected person's record or credit report

1 placed under this section remains in effect until either:

2 (a) The protected person or the protected person's representative requests that
3 the consumer reporting agency remove the security freeze pursuant to
4 subsection (7) of this section; or

5 (b) The security freeze is removed pursuant to subsection (10) of this section.

6 (7) (a) To remove a security freeze for a protected person, the protected person or
7 the protected person's representative shall submit a request for the removal
8 of the security freeze to the consumer reporting agency at the address
9 designated by the consumer reporting agency to receive the request, and pay
10 a fee as prescribed in subsection (8) of this section. In addition:

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

14 a. Proof that the protected person's representative no longer has
15 sufficient proof of authority to act on behalf of the protected
16 person; or

17 b. Clear and proper identification of the protected person; and

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

22 a. Clear and proper identification of the protected person and the
23 representative; and

24 b. Sufficient proof of authority to act on behalf of the protected
25 person.

26 (b) Within thirty (30) days after receiving a request to remove a security freeze
27 placed pursuant to subsection (2) of this section, the consumer reporting

- 1 agency shall remove the security freeze for the protected person.
- 2 (8) A consumer reporting agency may charge a fee for each placement or removal of
3 a security freeze on a protected person's record or credit report. The fee may not
4 exceed ten dollars (\$10).
- 5 (9) Notwithstanding subsection (8) of this section, a consumer reporting agency may
6 not charge any fee under this section if:
- 7 (a) The protected person's representative provides a copy of a police report to
8 the consumer reporting agency alleging that the protected person has been
9 a victim of an offense involving identity theft; or
- 10 (b) A request for the placement or removal of a security freeze is for a protected
11 person who is under sixteen (16) years of age at the time of the request and
12 the consumer reporting agency has a credit report pertaining to the
13 protected person.
- 14 (10) A consumer reporting agency may remove a security freeze for a protected person
15 or may delete a protected person's record if the security freeze was placed or the
16 record was created based on a material misrepresentation of fact by the protected
17 person or the protected person's representative.
- 18 (11) Any person who willfully fails to comply with any requirement imposed under
19 this section with respect to any consumer is liable to that consumer in an amount
20 equal to the sum of:
- 21 (a) Any actual damages sustained by the consumer as a result of the failure;
22 (b) Any liquidated damages of not less than one hundred dollars (\$100) and not
23 more than one thousand dollars (\$1,000);
- 24 (c) Any punitive damages as the court may allow; and
- 25 (d) In the case of any successful action to enforce any liability under this
26 section, the costs of the action together with reasonable attorney's fees as
27 determined by the court.

1 (12) Any person, other than the named individual or individuals in the report, who
2 obtains a consumer report, requests a security freeze, requests the temporary lift
3 of a freeze, or requests the removal of a security freeze from a consumer
4 reporting agency under false pretenses or in an attempt to violate federal or state
5 law shall be liable to the consumer reporting agency for actual damages
6 sustained by the consumer reporting agency or one thousand dollars (\$1,000),
7 whichever is greater.

8 (13) This section does not apply to a protected person's credit report or record
9 provided to:

10 (a) A federal, state, or local governmental entity, including a law enforcement
11 agency, or court, or their agents or assigns;

12 (b) A private collection agency for the sole purpose of assisting in the collection
13 of an existing debt of the consumer who is the subject of the consumer
14 report requested;

15 (c) A person or entity, or a subsidiary, affiliate, or agent of that person or
16 entity, or an assignee of a financial obligation owing by the consumer to
17 that person or entity, or a prospective assignee of a financial obligation
18 owing by the consumer to that person or entity in conjunction with the
19 proposed purchase of the financial obligation, with which the consumer has
20 or had prior to assignment an account or contract, including a demand
21 deposit account, or to whom the consumer issued a negotiable instrument,
22 for the purposes of reviewing the account or collecting the financial
23 obligation owing for the account, contract, or negotiable instrument. For
24 purposes of this paragraph, "reviewing the account" includes activities
25 related to account maintenance, monitoring, credit line increases, and
26 account upgrades and enhancements;

27 (d) A person, for the purposes of prescreening as provided by the federal Fair

1 *Credit Reporting Act, 15 U.S.C. secs. 1681 et seq.;*

2 *(e) A consumer reporting agency for the purposes of providing a consumer*
3 *with a copy of his or her own report on his or her request;*

4 *(f) A child support enforcement agency;*

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

12 *(h) A check services or fraud prevention services company, which issues reports*
13 *on incidents of fraud or authorizations for the purpose of approving or*
14 *processing negotiable instruments, electronic funds transfers, or similar*
15 *methods of payments;*

16 *(i) A deposit account information service company, which issues reports*
17 *regarding account closures due to fraud, substantial overdrafts, ATM*
18 *abuse, or similar negative information regarding a consumer to inquiring*
19 *banks or other financial institutions for use only in reviewing a consumer*
20 *request for a deposit account at the inquiring bank or financial institution;*

21 *(j) Any person or entity using a consumer report in preparation for a civil or*
22 *criminal action, or an insurance company in investigation of a claim; or*

23 *(k) 1. Any insurance company for setting or adjusting a rate or underwriting*
24 *for property and casualty insurance purposes; or*

25 *2. Any consumer reporting agency database or file which consists solely*
26 *of consumer information concerning, and used solely for:*

27 *a. Criminal record information;*

- 1 **b. Personal loss history information;**
- 2 **c. Fraud prevention or detection;**
- 3 **d. Employment screening; or**
- 4 **e. Tenant screening.**

5 ➔ Section 2. This Act takes effect January 1, 2018.