

1 AN ACT relating to data privacy.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Consumer report" has the same meaning as in the federal Fair Credit*
7 *Reporting Act, 15 U.S.C. sec. 1681a, as amended;*

8 *(b) "Consumer reporting agency" has the same meaning as in the federal Fair*
9 *Credit Reporting Act, 15 U.S.C. sec. 1681a, as amended;*

10 *(c) "Financial institution" means any:*

11 *1. Bank, credit union, mortgage loan broker, mortgage loan company,*
12 *consumer loan company, or deferred deposit service business; or*

13 *2. Other person that engages in the business of lending money in*
14 *Kentucky; and*

15 *(d) "Third party" means a person other than:*

16 *1. The financial institution that made the initial request under subsection*
17 *(2) of this section; or*

18 *2. The person whose consumer report or credit score has been requested*
19 *by the financial institution referenced in subparagraph 1. of this*
20 *paragraph.*

21 *(2) If a financial institution requests a person's consumer report or credit score from*
22 *a consumer reporting agency, the consumer reporting agency shall not, solely or*
23 *in part on the basis of that request, furnish the person's consumer report or credit*
24 *score or any other information about the person to a third party unless the*
25 *consumer reporting agency has obtained a written consent and acknowledgment*
26 *from the person that authorizes the consumer reporting agency to engage in that*
27 *activity.*

1 (3) A consumer reporting agency shall not do any of the following:

2 (a) Require or incentivize a financial institution to seek or obtain a written
3 consent or acknowledgment described in subsection (2) of this section from
4 any person; or

5 (b) Refuse to provide a person's consumer report or credit score or other
6 information about the person to a financial institution that is not a third
7 party, or otherwise penalize a financial institution that is not a third party,
8 because any person has not provided a written consent or acknowledgement
9 to the consumer reporting agency under subsection (2) of this section.

10 (4) (a) The Attorney General may institute an action in any court of competent
11 jurisdiction against any consumer reporting agency alleged to have violated
12 this section.

13 (b) A person may institute a civil action in any court of competent jurisdiction
14 against any consumer reporting agency alleged to have furnished the
15 person's consumer report, credit score, or any other information about the
16 person to a third party in violation of this section.

17 (c) A financial institution may institute a civil action in any court of competent
18 jurisdiction against any consumer reporting agency alleged to have violated
19 subsection (3) of this section with respect to the financial institution.

20 (d) In any action brought under this subsection, if the court finds that the
21 consumer reporting agency has violated this section:

22 1. The plaintiff may:

23 a. Obtain an injunction to enjoin a continuance of the unlawful
24 activity;

25 b. Recover damages at three (3) times the amount of any actual
26 damages sustained, which shall be paid to the injured person or
27 persons; and

- 1 c. Be awarded reasonable attorney's fees and costs; and
- 2 2. In addition to the remedies and penalties provided under
- 3 subparagraph 1. of this paragraph:
- 4 a. A plaintiff other than the Attorney General may recover a
- 5 statutory penalty of two thousand dollars (\$2,000) per violation;
- 6 and
- 7 b. The Attorney General may recover civil penalties not to exceed
- 8 two thousand dollars (\$2,000) per violation.
- 9 (e) It shall not be necessary for actual damages to be alleged or proved in order
- 10 to recover injunctive relief, attorney's fees and costs, or the statutory penalty
- 11 or civil penalties authorized in paragraph (d)2. of this subsection.
- 12 (5) (a) The remedies and penalties prescribed in this section shall be cumulative.
- 13 (b) Nothing in this section shall be construed to limit or restrict the powers,
- 14 duties, remedies, or penalties available to the Attorney General, the
- 15 Commonwealth, or any other person under any other statutory or common
- 16 law.
- 17 (6) The Attorney General may promulgate administrative regulations in accordance
- 18 with KRS Chapter 13A as necessary to effectuate, or as an aid to the effectuation
- 19 of, the enforcement of this section.

20 ➔Section 2. If any provision of this Act, or this Act's application to any person or

21 circumstance, is held invalid, the invalidity shall not affect other provisions or

22 applications of the Act, which shall be given effect without the invalid provision or

23 application, and to this end the provisions and applications of this Act are severable.