

Arkansas Code

Title 4 – Business and Commercial Law

Subtitles 7 – Consumer Protection

Chapter 112 – Arkansas Consumer Report Security Freeze Act

§ 4-112-101. Title.

This chapter shall be known and may be cited as the "Arkansas Consumer Report Security Freeze Act".

§ 4-112-102. Definitions.

As used in this chapter:

- (1) "Consumer" means an individual;
- (2) "Consumer report" means the same as defined in 15 U.S.C. § 1681a(d) as it existed on January 1, 2009;
- (3) "Consumer reporting agency" means the same as defined in 15 U.S.C. § 1681a(f) as it existed on January 1, 2009;
- (4) "Credit report" means a consumer report that a consumer reporting agency furnishes to a person that it has reason to believe intends to use the consumer report as a factor in establishing the consumer's eligibility for credit to be used primarily for personal, family, or household purposes;
- (5) "Proper identification" means the same as defined in 15 U.S.C. § 1681h(a)(1) as it existed on January 1, 2009;
- (6) "Security freeze" means a notice placed in a credit report of a consumer at the request of the consumer that prohibits a consumer reporting agency from releasing the credit report or credit score of the consumer in response to a request to open a new account or to extend credit; and
- (7) (A) "Victim of identity theft" means a consumer who supplies to a consumer reporting agency in conjunction with a request for a security freeze a copy of a valid investigative report, an incident report, or a complaint with a law enforcement agency alleging the unlawful use of the consumer's identifying information by another person.

(B) The copy of the valid investigative report, the incident report, or the complaint with a law enforcement agency may be transmitted to the consumer reporting agency by mail or secure electronic connection or secure electronic mail connection if the connection is made available by the consumer reporting agency.

§ 4-112-103. Placement of security freeze.

(a) A consumer may request that a security freeze be placed on his or her consumer report by:

- (1) Sending his or her request in writing by mail to a consumer reporting agency;
- (2) Telephoning his or her request to a consumer reporting agency and providing over the telephone proper identification or certain personal identification information required by the consumer reporting

agency; or

(3) Electronically forwarding his or her request to a consumer reporting agency through a secure electronic connection or a secure electronic mail connection if the connection is made available by the consumer reporting agency.

(b) A consumer reporting agency shall place a security freeze on a credit report of a consumer no later than three (3) business days after receiving from the consumer:

(1) A request as provided in subsection (a) of this section;

(2) Proper identification; and

(3) Payment of the required fee, if applicable.

(c) Within five (5) business days of the receipt of the information and any applicable fees under subsection (b) of this section, the consumer reporting agency shall:

(1) Send a written confirmation of the placement of the security freeze to the consumer; and

(2) Provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit report for a specific period of time.

(d) At the time a consumer requests a security freeze, the consumer reporting agency shall disclose the process:

(1) Of placing a security freeze and temporarily lifting a security freeze; and

(2) For allowing access to information from the credit report of the consumer for a period of time while the security freeze is in place.

§ 4-112-104. Access to credit report -- Notification of unauthorized access.

(a) If the consumer wishes to allow his or her credit report to be accessed for a specific period of time while a security freeze is in place, he or she shall contact the consumer reporting agency using a method of contact designated by the consumer reporting agency requesting that the security freeze be temporarily lifted and providing, to complete the request, all of the following:

(1) Proper identification;

(2) The unique personal identification number or password provided by the consumer reporting agency under § 4-112-103(c); and

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

(b) (1) Except as provided in subdivision (b)(2) of this section, a consumer reporting agency that receives a request in compliance with subsection (a) of this section from a consumer to temporarily lift a security freeze on his or her credit report accompanied by all of the items listed in subsection (a) of this section shall comply with the request no later than:

(A) Three (3) business days after receiving the completed request by mail; or

(B) Fifteen (15) minutes after receiving the completed request by:

(i) Telephone;

(ii) Secure electronic connection; or

(iii) Secure electronic mail connection.

(2) A consumer reporting agency may temporarily lift a security freeze as soon as the circumstances reasonably permit during normal business hours if the consumer reporting agency's ability to temporarily lift the security freeze within fifteen (15) minutes is prevented by:

(A) An act of God, including without limitation a fire, an earthquake, a hurricane, a storm, or a similar natural disaster or phenomena;

(B) An unauthorized or illegal act by a third party, including without limitation terrorism, sabotage, riot, vandalism, a labor strike or dispute disrupting operations, or a similar occurrence;

(C) An operational interruption, including without limitation electrical failure, an unanticipated delay in the delivery of equipment or a replacement part, a computer hardware or software failure inhibiting response time, or a similar disruption;

(D) Governmental action, including without limitation an emergency order or regulation, a judicial or law enforcement action, or a similar directive;

(E) Regularly scheduled maintenance or updates during other than normal business hours to the consumer reporting agency's computer systems;

(F) Commercially reasonable maintenance or repair to the consumer reporting agency's systems if the maintenance or repair is unexpected or unscheduled; or

(G) The receipt of a removal request outside of normal business hours.

(c) A consumer reporting agency may develop procedures involving the use of telephone, the Internet, or other electronic media to receive and process a request from a consumer to temporarily lift a security freeze on a credit report under subsection (a) of this section in an expedited manner.

(d) If in connection with an application for credit or any other use a third party requests access to a credit report on which a security freeze is in effect and the consumer does not allow his or her credit report to be accessed for that period of time, the third party may treat the application as incomplete.

(e) If a consumer reporting agency grants unauthorized access to a consumer's credit report, then within three (3) days of learning that unauthorized access to the credit report has been granted, the consumer reporting agency shall send notice to the consumer that unauthorized access has been granted for each time unauthorized access was granted.

§ 4-112-105. Removal of security freeze.

(a) A consumer reporting agency shall remove or temporarily lift a security freeze placed on the credit report of a consumer in the following cases:

(1) Upon the consumer's request under § 4-112-104 or § 4-112-106; or

(2) If the credit report of the consumer was frozen due to a material misrepresentation of fact by the consumer.

(b) If a consumer reporting agency intends to remove a security freeze upon a credit report of a consumer and is not doing so at the request of the consumer, the consumer reporting agency shall notify the consumer in writing at least three (3) business days before removing the security freeze on the credit report of the consumer.

§ 4-112-106. Consumer request for removal of security freeze.

(a) (1) A security freeze shall remain in place until the consumer requests that the security freeze be removed using a method of contact designated by the consumer reporting agency.

(2) A consumer reporting agency shall remove a security freeze within three (3) business days of receiving a request for removal under subdivision (a)(1) of this section from a consumer who provides with the request:

(A) Proper identification; and

(B) The unique personal identification number or password provided by the consumer reporting agency under § 4-112-103(c)(2).

(b) A consumer reporting agency shall require proper identification of the consumer making a request to place or remove a security freeze.

§ 4-112-107. Exceptions.

(a) This chapter does not apply to the use of a credit report by any of the following:

(1) (A) A person or an entity, or a subsidiary, an affiliate, or an agent of that person or entity, or an assignee of a financial obligation owed by the consumer to that person or entity, or a prospective assignee of a financial obligation owed by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or a 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.

(B) As used in this subdivision (a)(1), "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) A subsidiary, an affiliate, an agent, an assignee, or a prospective assignee of a person or an entity to which access has been granted for purposes of facilitating the extension of credit or other permissible use;

(3) A state or local agency, law enforcement agency, trial court, or private collection agency acting under a court order, warrant, or subpoena;

(4) A child support agency acting under Title IV-D of the Social Security Act, 42 U.S.C. § 651 et seq., as it existed on January 1, 2009;

(5) The state or its agents or assigns acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other constitutional or statutory responsibilities if such responsibilities are consistent with a permissible purpose under 15 U.S.C. § 1681b, as it existed on January 1, 2009;

(6) The use of credit information used for purposes permitted under 15 U.S.C. § 1681b(c), as it existed on January 1, 2009;

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

(8) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report or credit score upon the request of the consumer;

(9) Any person using the information in connection with the business of insurance; or

(10) A consumer reporting agency for its database or file that is used for one (1) or more of the following:

(A) Maintaining criminal records;

(B) Fraud prevention or detection;

(C) Maintaining personal loss history information; or

(D) Employment, tenant, or individual background screening.

§ 4-112-108. Permissible fees -- Exception.

(a) Except as provided in subsection (b) of this section, a consumer reporting agency may charge a consumer a fee of no more than five dollars (\$5.00) for the:

(1) Initial placement of a security freeze;

(2) Removal of a security freeze; or

(3) Temporary lifting of a security freeze for a period of time.

(b) A consumer reporting agency shall not charge a fee for the initial placement of a security freeze if requested by a consumer who is:

(1) At least sixty-five (65) years of age; or

(2) A victim of identity theft.

§ 4-112-109. Written confirmation.

(a) If a security freeze is in place, a consumer reporting agency shall not change any of the following

official information in a credit report without sending a written confirmation of the change to the consumer within thirty (30) days of posting the change to the file of the consumer:

- (1) Name;
- (2) Date of birth;
- (3) Social security number; and
- (4) Address.

(b) (1) Written confirmation is not required for technical modifications of official information of a consumer, including name and street abbreviations, complete spellings, or the transposition of numbers or letters.

(2) In the case of an address change, the written confirmation shall be sent to both the new address and to the former address.

§ 4-112-110. Entities not required to place security freeze.

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

(1) (A) 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 does not maintain a permanent database of credit information from which new credit reports are produced.

(B) However, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a credit report by another consumer reporting agency;

(2) 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; or

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

§ 4-112-111. Notice.

At any time that a consumer is required to receive a summary of rights required under 15 U.S.C. § 1681g(c), as it existed on January 1, 2009, the following notice shall be included:

"Arkansas Consumers Have the Right to Obtain a Security Freeze.

You have the right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or

prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the security freeze on your credit report or authorize the release of your credit report for a period of time after the security freeze is in place. To provide that authorization you must contact the consumer reporting agency by one (1) of the methods that it requires and provide all of the following:

- (1) Your personal identification number or password;
- (2) Proper identification to verify your identity; and
- (3) The proper information regarding the period of time for which the credit report shall be available.

A consumer reporting agency must authorize the release of your credit report for a period of time within fifteen (15) minutes or as soon as practical if good cause exists for the delay, and must remove a security freeze no later than three (3) business days after receiving all of the above items by any method that the consumer reporting agency allows.

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

You have a right to bring a civil action against anyone, including a consumer reporting agency, that willfully or negligently fails to comply with any requirement of the Arkansas Consumer Report Security Freeze Act.

A consumer reporting agency has the right to charge you up to five dollars (\$5.00) to place a security freeze on your credit report, to temporarily lift a security freeze on your credit report, or to remove a security freeze from your credit report. However, you shall not be charged any fee if you are at least sixty-five (65) years of age or if you are a victim of identity theft and have submitted, in conjunction with the security freeze request, a copy of a valid investigative report or incident report or complaint with a law enforcement agency alleging the unlawful use of your identifying information by another person."

§ 4-112-112. Civil action.

(a) Any person or entity that willfully fails to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

- (1) Any actual damages sustained by the consumer; and
 - (2) In the case of any successful action to enforce any liability under this chapter, the costs of the action together with reasonable attorney's fees as determined by the court.
- (b) Any person or entity that obtains a credit report, requests a security freeze, or requests the temporary lift of a security freeze or the removal of a security freeze from a consumer reporting agency under false

pretenses or in an attempt to violate federal or state law is liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or one thousand dollars (\$1,000), whichever is greater.

(c) Any person or entity that is negligent in failing to comply with any requirement imposed under this chapter with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) Any actual damages sustained by the consumer as a result of the failure; and

(2) In the case of any successful action to enforce any liability under this chapter, the costs of the action together with reasonable attorney's fees as determined by the court.

(d) Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this chapter was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party reasonable attorney's fees in relation to the work expended in responding to the pleading, motion, or other paper.

§ 4-112-113. Enforcement -- Penalties -- Remedies.

(a) A violation of this chapter constitutes an unfair act or practice or a deceptive act or practice under § 4-88-101 et seq. pertaining to deceptive trade practices.

(b) (1) All remedies, penalties, and authority granted to the Attorney General under § 4-88-101 et seq. shall be available to the Attorney General for enforcement of this chapter.

(2) The remedies and penalties provided by this section are cumulative to each other and the remedies or penalties available under all other laws of this state.

§ 4-112-114. No prohibition on advising third party that security freeze is in effect.

This chapter does not prohibit a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the credit report of a consumer.