

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1095

By: Condit

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6 AS INTRODUCED

7 An Act relating to consumer protection; enacting the  
8 Oklahoma Protected Consumer Security Freeze Act;  
9 defining terms; outlining exemptions of act;  
10 identifying controlling law if conflict exists;  
11 allowing person to act on behalf of protected  
12 consumer in specific cases; listing acceptable proof  
13 of identification; prohibiting use of protected  
14 consumer's record for certain purposes; requiring  
15 security freeze on a protected consumer's consumer  
16 file upon request; directing consumer reporting  
17 agency to create a record for the protected consumer;  
18 prescribing time period for placement of freeze;  
19 proscribing release of consumer report unless freeze  
20 is removed; specifying time period for freeze;  
21 detailing process for removing freeze; directing  
22 removal of freeze within specified time; barring  
23 consumer reporting agency from charging fee;  
24 providing exception for reasonable fee with maximum  
amount; allowing removal of freeze if based on  
material misrepresentation; allowing litigation for  
violations of act through the Attorney General or  
district attorney; providing for codification; and  
providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 160.1 of Title 24, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. This act shall be known and may be cited as the "Oklahoma  
2 Protected Consumer Security Freeze Act".

3       B. As used in the Oklahoma Protected Consumer Security Freeze  
4 Act:

5       1. "Protected consumer" means an individual who resides in this  
6 state and is younger than sixteen (16) years of age at the time a  
7 request for the placement of a security freeze is made;

8       2. "Record" with respect to a protected consumer means a  
9 compilation of information identifying a protected consumer created  
10 by a consumer reporting agency solely to comply with this act;

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

14       4. "Security freeze" with respect to a protected consumer  
15 means:

16       a. if a consumer reporting agency does not have a  
17 consumer file pertaining to the protected consumer, a  
18 restriction that:

19       (1) is placed on the protected consumer's record in  
20 accordance with this act, and

21       (2) prohibits a consumer reporting agency from  
22 releasing a consumer report relating to the  
23 extension of credit involving the consumer's  
24 record without the express authorization of the

1 consumer's representative or the consumer, as  
2 applicable, or

3 b. if a consumer reporting agency has a consumer file  
4 pertaining to the protected consumer, a restriction  
5 that:

6 (1) is placed on the protected consumer's consumer  
7 report in accordance with this act, and

8 (2) except as otherwise provided by this act,  
9 prohibits a consumer reporting agency from  
10 releasing the protected consumer's consumer  
11 report relating to the extension of credit  
12 involving that consumer file, or any information  
13 derived from the protected consumer's consumer  
14 report.

15 SECTION 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 160.2 of Title 24, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The Oklahoma Protected Consumer Security Freeze Act shall  
19 not apply to the use of a protected consumer's consumer report or  
20 record by:

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

23 a. the protected consumer has subscribed, or  
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1           b.    the representative of the protected consumer has  
2                subscribed on behalf of the protected consumer;

3           2.   A person providing the protected consumer or the protected  
4 consumer's representative with a copy of the protected consumer's  
5 consumer report on request of the protected consumer or the  
6 protected consumer's representative;

7           3.   A consumer reporting agency with respect to a database or  
8 file that consists entirely of information concerning, and is used  
9 solely for, one or more of the following:

- 10           a.   criminal history record information,
- 11           b.   personal loss history information,
- 12           c.   fraud prevention or detection,
- 13           d.   tenant screening, or
- 14           e.   employment screening;

15           4.   A check service or fraud prevention service company that  
16 issues consumer reports:

- 17           a.   to prevent or investigate fraud, or
- 18           b.   for purposes of approving or processing negotiable  
19                instruments, electronic funds transfers, or similar  
20                methods of payment;

21           5.   A deposit account information service company that issues  
22 consumer reports related to account closures caused by fraud,  
23 substantial overdrafts, automated teller machine abuses, or similar  
24 negative information regarding a consumer to an inquiring financial

1 institution for use by the financial institution only in reviewing a  
2 consumer request for a deposit account with that institution; or

3 6. A consumer reporting agency that:

4 a. acts only to resell credit information by assembling  
5 and merging information contained in a database of  
6 another consumer reporting agency or multiple consumer  
7 reporting agencies, and

8 b. does not maintain a permanent database of credit  
9 information from which new consumer reports are  
10 produced.

11 B. To the extent of a conflict between a provision of the  
12 Oklahoma Protected Consumer Security Freeze Act relating to a  
13 protected consumer and another provision of the Oklahoma Statutes,  
14 this act controls.

15 SECTION 3. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 160.3 of Title 24, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. Documentation that shows a person has authority to act on  
19 behalf of a protected consumer is considered sufficient proof of  
20 authority for purposes of the Oklahoma Protected Consumer Security  
21 Freeze Act, including:

22 1. An order issued by a court; or  
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1        2. A written, notarized statement signed by a representative  
2 that expressly describes the authority of the representative to act  
3 on behalf of a protected consumer.

4        B. Information or documentation that identifies a protected  
5 consumer or a representative of a protected consumer is considered  
6 sufficient proof of identity for purposes of this act, including:

7        1. A social security number or a copy of the social security  
8 card issued by the United States Social Security Administration;

9        2. A certified or official copy of a birth certificate issued  
10 by the State Department of Health;

11       3. A copy of a driver license or identification card issued by  
12 the Department of Public Safety; or

13       4. Any other government-issued identification.

14       SECTION 4.        NEW LAW        A new section of law to be codified  
15 in the Oklahoma Statutes as Section 160.4 of Title 24, unless there  
16 is created a duplication in numbering, reads as follows:

17        A protected consumer's record shall not be created or used to  
18 consider the protected consumer's creditworthiness, credit standing,  
19 credit capacity, debts, character, general reputation, personal  
20 characteristics, or mode of living of a consumer that is used or  
21 expected to be used or collected, wholly or partly, as a factor in  
22 establishing the consumer's eligibility for credit or insurance for  
23 personal, family or household purposes, employment purposes, or for  
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1 any purpose authorized under Sections 603 and 604 of the Fair Credit  
2 Reporting Act, 15 U.S.C. Sections 1681a and 1681b.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 160.5 of Title 24, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Except as provided by subsection B of this section, a  
7 consumer reporting agency shall place a security freeze on a  
8 protected consumer's consumer file if:

9 1. The consumer reporting agency receives a request from the  
10 protected consumer's representative for the placement of the  
11 security freeze as provided by this section; and

12 2. The protected consumer's representative:

13 a. submits the request to the consumer reporting agency  
14 at the address or other point of contact of and in the  
15 manner specified by the consumer reporting agency,

16 b. provides to the consumer reporting agency sufficient  
17 proof of identification of the protected consumer and  
18 the representative,

19 c. provides to the consumer reporting agency sufficient  
20 proof of authority to act on behalf of the protected  
21 consumer, and

22 d. pays to the consumer reporting agency a fee as  
23 provided by Section 9 of this act.

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1 B. If a consumer reporting agency does not have a consumer file  
2 pertaining to a protected consumer when the consumer reporting  
3 agency receives a request under subsection A of this section and if  
4 the requirements of subsection A of this section are met, the  
5 consumer reporting agency shall create a record for the protected  
6 consumer and place a security freeze on the protected consumer's  
7 record.

8 C. The consumer reporting agency shall place the security  
9 freeze on the protected consumer's consumer file or record, as  
10 applicable, not later than the thirtieth day after receiving a  
11 request that meets the requirements of subsection A of this section.

12 SECTION 6. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 160.6 of Title 24, unless there  
14 is created a duplication in numbering, reads as follows:

15 Unless a security freeze on a protected consumer's consumer file  
16 or record is removed under Section 8 or 10 of this act, a consumer  
17 reporting agency shall not release any consumer report relating to  
18 the protected consumer, any information derived from the protected  
19 consumer's consumer report or any record created for the protected  
20 consumer.

21 SECTION 7. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 160.7 of Title 24, unless there  
23 is created a duplication in numbering, reads as follows:

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1 A security freeze on a protected consumer's consumer file or  
2 record remains in effect until:

3 1. The protected consumer or the protected consumer's  
4 representative requests that the consumer reporting agency remove  
5 the security freeze in accordance with Section 8 of this act; or

6 2. A consumer reporting agency removes the security freeze  
7 under Section 10 of this act.

8 SECTION 8. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 160.8 of Title 24, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. A protected consumer or a protected consumer's  
12 representative may remove a security freeze on a protected  
13 consumer's consumer file or record if the protected consumer or  
14 representative:

15 1. Submits a request for the removal of the security freeze to  
16 the consumer reporting agency at the address or other point of  
17 contact of and in the manner specified by the consumer reporting  
18 agency;

19 2. Provides to the consumer reporting agency:

20 a. in the case of a request by the protected consumer:

21 (1) sufficient proof of identification of the  
22 protected consumer, and

23 (2) proof that the sufficient proof of authority for  
24 the protected consumer's representative to act on

1                   behalf of the protected consumer is no longer  
2                   valid, or

3           b.    in the case of a request by the representative of a  
4           protected consumer:

5                   (1)   sufficient proof of identification of the  
6                   protected consumer and the representative, and

7                   (2)   sufficient proof of authority to act on behalf of  
8                   the protected consumer; and

9           3.   Pays to the consumer reporting agency a fee as provided by  
10   Section 9 of this act.

11           B.   The consumer reporting agency shall remove the security  
12   freeze on the protected consumer's consumer file or record not later  
13   than the thirtieth day after the date the agency receives a request  
14   that meets the requirements of subsection A of this section.

15           SECTION 9.       NEW LAW       A new section of law to be codified  
16   in the Oklahoma Statutes as Section 160.9 of Title 24, unless there  
17   is created a duplication in numbering, reads as follows:

18           A.   A consumer reporting agency shall not charge a fee for any  
19   service performed under the Oklahoma Protected Consumer Security  
20   Freeze Act other than a fee authorized by this section.

21           B.   Except as provided by subsection C of this section, a  
22   consumer reporting agency may charge a reasonable fee in an amount  
23   not to exceed Ten Dollars (\$10.00) for each placement or removal of  
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1 a security freeze on the protected consumer's consumer file or  
2 record.

3 C. A consumer reporting agency shall not charge a fee for the  
4 placement of a security freeze under this act if:

5 1. The protected consumer's representative submits to the  
6 consumer reporting agency a copy of a valid police report,  
7 investigative report, or complaint involving the commission of an  
8 offense under Section 1533.1 of Title 21 of the Oklahoma Statutes;  
9 or

10 2. At the time the protected consumer's representative makes  
11 the request for a security freeze:

12 a. the protected consumer is under the age of sixteen  
13 (16), and

14 b. the consumer reporting agency has created a consumer  
15 report pertaining to the protected consumer.

16 SECTION 10. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 160.10 of Title 24, unless there  
18 is created a duplication in numbering, reads as follows:

19 A consumer reporting agency may remove a security freeze on a  
20 protected consumer's consumer file or record, or delete a record of  
21 a protected consumer, if the security freeze was placed or the  
22 record was created based on a material misrepresentation of fact by  
23 the protected consumer or the protected consumer's representative.

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1 SECTION 11. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 160.11 of Title 24, unless there  
3 is created a duplication in numbering, reads as follows:

4 A violation of the Oklahoma Protected Consumer Security Freeze  
5 Act that results in injury or loss to the residents of this state  
6 may be litigated by the Attorney General or a district attorney in  
7 the same manner as an unlawful practice under the Oklahoma Consumer  
8 Protection Act.

9 SECTION 12. This act shall become effective November 1, 2015.

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