

ASSEMBLY BILL

No. 1580

Introduced by Assembly Member Gatto

January 5, 2016

An act to add Sections 1785.11.9, 1785.11.10, and 1785.11.11 to the Civil Code, relating to consumer credit reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 1580, as introduced, Gatto. Consumer credit reports: security freezes: protected consumer.

Existing state law defines and regulates consumer credit reports and authorizes a consumer to place a security freeze on his or her credit report by making a request in writing by mail to a consumer credit reporting agency. Existing state law requires a consumer credit reporting agency to place the security freeze on the consumer's credit report no later than 3 business days after receiving the consumer's request.

This bill would authorize a representative of a protected consumer, defined as an individual who is under 16 years of age at the time a request for the placement of a security freeze is made or an incapacitated person or a protected individual for whom a guardian or conservator has been appointed, to place or remove a security freeze for the protected consumer, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.11.9 is added to the Civil Code, to
2 read:

1 1785.11.9. For purposes of Sections 1785.11.10 and
2 1785.11.11, the following terms shall have the following meanings:

3 (a) “Protected consumer” means an individual who is either of
4 the following:

5 (1) Under 16 years of age at the time a request for the placement
6 of a security freeze is made.

7 (2) An incapacitated person or a protected person for whom a
8 guardian or conservator has been appointed.

9 (b) “Record” means a compilation of information that:

10 (1) Identifies a protected consumer.

11 (2) Was created by a consumer credit reporting agency solely
12 for the purpose of complying with this section.

13 (3) Is not otherwise authorized to be created or used to consider
14 the protected consumer’s credit worthiness, credit standing, credit
15 capacity, character, general reputation, personal characteristics,
16 or mode of living.

17 (c) “Representative” means a person who provides to a consumer
18 credit reporting agency sufficient proof of authority to act on behalf
19 of a protected consumer.

20 (d) “Security freeze” means:

21 (1) If a consumer reporting agency does not have a file
22 pertaining to a protected consumer, a restriction that:

23 (A) Is placed on the protected consumer’s record in accordance
24 with this section.

25 (B) Prohibits the consumer credit reporting agency from
26 releasing the protected consumer’s record except as authorized in
27 this section.

28 (2) If a consumer reporting agency has a file pertaining to a
29 protected consumer, a restriction that:

30 (A) Is placed on a the protected consumer’s consumer report in
31 accordance with this section.

32 (B) Prohibits the consumer reporting agency from releasing the
33 protected consumer’s consumer report or any information derived
34 from the protected consumer’s consumer report except as
35 authorized in this section.

36 (e) “Sufficient proof of authority” means documentation that
37 shows that a representative has authority to act on behalf of a
38 protected consumer. This documentation includes, but is not limited
39 to:

40 (1) A court order.

1 (2) A lawfully executed and valid power of attorney.

2 (3) A written, notarized statement signed by a representative
3 that expressly describes the authority of the representative to act
4 on behalf of a protected consumer.

5 (f) “Sufficient proof of identification” means information or
6 documentation that identifies a protected consumer or a
7 representative of a protected consumer. This information or
8 documentation includes, but is not limited to:

9 (1) A social security number or a copy of a social security card
10 issued by the Social Security Administration.

11 (2) A certified copy or official copy of a birth certificate issued
12 by the entity authorized to issue the birth certificate.

13 (3) A copy of a driver’s license, an identification issued by the
14 Department of Motor Vehicles, or any other government-issued
15 identification.

16 (4) A copy of a bill for telephone, sewer, septic tank, water,
17 electric, oil, or natural gas services, that shows a name and a home
18 address.

19 SEC. 2. Section 1785.11.10 is added to the Civil Code, to read:

20 1785.11.10. Sections 1785.11.9 to 1785.11.11, inclusive, do
21 not apply to the use of a protected consumer report or record by
22 any of the following:

23 (a) A person or entity listed in subdivision (l) of Section
24 1785.11.2, or Section 1785.11.4 or 1785.11.6.

25 (b) A person administering a credit file monitoring subscription
26 service to which the protected consumer has subscribed or to which
27 the representative of the protected consumer has subscribed on
28 behalf of the protected consumer.

29 (c) A person who provides the protected consumer or the
30 protected consumer’s representative with a copy of the protected
31 consumer’s consumer report on request of the protected consumer
32 or of the protected consumer’s representative.

33 (d) A person or entity that maintains or is a database used solely
34 for one of the following purposes:

35 (1) Criminal record information.

36 (2) Personal loss history information.

37 (3) Fraud prevention or protection.

38 (4) Employment screening.

39 (5) Tenant screening.

40 SEC. 3. Section 1785.11.11 is added to the Civil Code, to read:

1 1785.11.11. (a) A consumer credit reporting agency shall place
 2 a security freeze for a protected consumer if both of the following
 3 occur:

4 (1) The consumer credit reporting agency receives a request
 5 from the protected consumer’s representative for the placement
 6 of the security freeze pursuant to this section.

7 (2) The protected consumer’s representative does all of the
 8 following:

9 (A) Submits the request to the consumer credit reporting agency
 10 at the address or other point of contact and in the manner specified
 11 by the consumer reporting agency.

12 (B) Provides to the consumer credit reporting agency sufficient
 13 proof of identification of the protected consumer and the
 14 representative.

15 (C) Provides to the consumer reporting agency sufficient proof
 16 of authority to act on behalf of the protected consumer.

17 (D) Pays to the consumer credit reporting agency a fee as
 18 authorized by subdivision (h).

19 (b) If a consumer credit reporting agency does not have a file
 20 pertaining to a protected consumer when the consumer credit
 21 reporting agency receives a request pursuant to paragraph (1) of
 22 subdivision (a), the consumer credit reporting agency shall create
 23 a record for the protected consumer.

24 (c) Within 30 days after receiving a request that meets the
 25 requirements of subdivision (a), a consumer credit reporting agency
 26 shall place a security freeze for the protected consumer.

27 (d) Unless a security freeze for a protected consumer is removed
 28 pursuant to subdivision (g) or (i), a consumer credit reporting
 29 agency shall not release the protected consumer’s consumer report,
 30 any information derived from the protected consumer’s consumer
 31 report, or any record created for the protected consumer.

32 (e) A security freeze for a protected consumer placed pursuant
 33 to this section shall remain in effect until either of the following
 34 occurs:

35 (1) The protected consumer or the protected consumer’s
 36 representative requests that the consumer credit reporting agency
 37 remove the security freeze in accordance with subdivision (g).

38 (2) The security freeze is removed in accordance with
 39 subdivision (i).

- 1 (f) To remove a security freeze, a protected consumer or a
2 protected consumer's representative shall do all of the following:
- 3 (1) Submit a request for removal of the security freeze to the
4 consumer credit reporting agency at the address or other point of
5 contact and in the manner specified by the consumer credit
6 reporting agency.
- 7 (2) Provide to the consumer credit reporting agency:
- 8 (A) If the request is made by the protected consumer:
- 9 (i) Proof that the sufficient proof of authority for the protected
10 consumer's representative to act on behalf of the protected
11 consumer is no longer valid.
- 12 (ii) Sufficient proof of identification of the protected consumer.
- 13 (B) If the request is made by the representative of a protected
14 consumer:
- 15 (i) Sufficient proof of identification of the protected consumer
16 and the representative.
- 17 (ii) Sufficient proof of authority to act on behalf of the protected
18 consumer.
- 19 (3) Pay to the consumer credit reporting agency a fee as
20 authorized by subdivision (h).
- 21 (g) Within 30 days after receiving a request that meets the
22 requirements of subdivision (f), a consumer credit reporting agency
23 shall remove a security freeze for a protected consumer.
- 24 (h) (1) Except as provided in paragraph (2), a consumer credit
25 reporting agency may not charge a fee for any service performed
26 pursuant to this section.
- 27 (2) A consumer credit reporting agency is authorized to charge
28 a reasonable fee, not exceeding ten dollars (\$10), for each
29 placement or removal of a security freeze for a protected consumer.
- 30 (3) Notwithstanding paragraph (2), a consumer credit reporting
31 agency shall not charge any fee pursuant to this section under any
32 of the following circumstances:
- 33 (A) The protected consumer's representative has received a
34 report of alleged identity fraud against the protected consumer
35 under Section 530.5 of the Penal Code and has provided copy of
36 the report to the consumer credit reporting agency.
- 37 (B) The request for the placement or removal of a security freeze
38 is for a protected consumer who is under 16 years of age at the
39 time of the request and the consumer credit reporting agency has
40 a report pertaining to the protected consumer.

- 1 (i) A consumer credit reporting agency is authorized to remove
- 2 a security freeze for a protected consumer or to delete a record of
- 3 a protected consumer if the security freeze was placed or the record
- 4 was created based upon a material misrepresentation of fact by the
- 5 protected consumer or the protected consumer's representative.