

AMENDED IN ASSEMBLY MARCH 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1580

Introduced by Assembly Member Gatto Members Gatto and Irwin

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 amended, 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~~ *require a consumer credit reporting agency to place a security freeze for 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. upon that consumer's representative's request and compliance with certain requirements. The bill would require a consumer credit reporting agency to send confirmation to the protected consumer that a freeze was placed within 10 days of the placement of the freeze. The bill would also require a consumer credit reporting agency to notify a protected consumer within*

10 days if his or her frozen credit report was released without proper authorization.

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:
- 3 1785.11.9. For purposes of Sections 1785.11.10 and
- 4 1785.11.11, the following terms shall have the following meanings:
- 5 (a) "Protected consumer" means an individual who is either of
- 6 the following:
- 7 (1) Under 16 years of age at the time a request for the placement
- 8 of a security freeze is made.
- 9 (2) An incapacitated person or a protected person for whom a
- 10 guardian or conservator has been appointed.
- 11 (b) "Record" means a compilation of information that:
- 12 (1) Identifies a protected consumer.
- 13 (2) Was created by a consumer credit reporting agency solely
- 14 for the purpose of complying with this section.
- 15 (3) Is not otherwise authorized to be created or used to consider
- 16 the protected consumer's ~~credit worthiness~~, *creditworthiness*, credit
- 17 standing, credit capacity, character, general reputation, personal
- 18 characteristics, or mode of living.
- 19 (c) "Representative" means a person who provides to a consumer
- 20 credit reporting agency sufficient proof of authority to act on behalf
- 21 of a protected consumer.
- 22 (d) "Security freeze" means:
- 23 (1) If a consumer *credit* reporting agency does not have a file
- 24 pertaining to a protected consumer, a restriction that:
- 25 (A) Is placed on the protected consumer's record in accordance
- 26 with this section.
- 27 (B) Prohibits the consumer credit reporting agency from
- 28 releasing the protected consumer's record except as authorized in
- 29 this section.
- 30 (2) If a consumer *credit* reporting agency has a file pertaining
- 31 to a protected consumer, a restriction that:
- 32 (A) Is placed on ~~a~~ the protected consumer's consumer report in
- 33 accordance with this section.

1 (B) Prohibits the consumer *credit* reporting agency from
2 releasing the protected consumer’s consumer report or any
3 information derived from the protected consumer’s consumer
4 report except as authorized in this section.

5 (e) “Sufficient proof of authority” means documentation that
6 shows that a representative has authority to act on behalf of a
7 protected—~~consumer~~. *consumer in a financial matter*. This
8 documentation includes, but is not limited to:

9 (1) A court—~~order~~. *order or relevant enabling document issued*
10 *by a court*.

11 (2) A ~~lawfully executed~~ *legally sufficient* and valid power of
12 *attorney, or a durable power of attorney*.

13 (3) A written, notarized statement signed by a representative
14 that expressly describes the authority of the representative to act
15 on behalf of a protected—~~consumer~~. *consumer, including a*
16 *temporary conservator or temporary guardian*.

17 (f) “Sufficient proof of identification” means information or
18 documentation that identifies a protected consumer or a
19 representative of a protected consumer. This information or
20 documentation includes, but is not limited to:

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

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

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

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

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

32 1785.11.10. Sections 1785.11.9 to 1785.11.11, inclusive, do
33 not apply to the use of a protected consumer report or record by
34 any of the following:

35 (a) A person or entity listed in subdivision (l) of Section
36 1785.11.2, or Section 1785.11.4 or 1785.11.6.

37 (b) A person administering a credit file monitoring subscription
38 service to which the protected consumer has subscribed or to which
39 the representative of the protected consumer has subscribed on
40 behalf of the protected consumer.

1 (c) A person who provides the protected consumer or the
 2 protected consumer’s representative with a copy of the protected
 3 consumer’s consumer report on request of the protected consumer
 4 or of the protected consumer’s representative.

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

- 7 (1) Criminal record information.
- 8 (2) Personal loss history information.
- 9 (3) Fraud prevention or protection.
- 10 (4) Employment screening.
- 11 (5) Tenant screening.

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

13 1785.11.11. (a) A consumer credit reporting agency shall place
 14 a security freeze for a protected consumer if both of the following
 15 occur:

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

19 (2) The protected consumer’s representative does all of the
 20 following:

21 (A) Submits the request to the consumer credit reporting agency
 22 at the address or other point of contact and in the manner specified
 23 by the consumer *credit* reporting agency.

24 (B) Provides to the consumer credit reporting agency sufficient
 25 proof of identification of the protected consumer and the
 26 representative.

27 (C) Provides to the consumer *credit* reporting agency sufficient
 28 proof of authority to act on behalf of the protected consumer.

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

31 (b) If a consumer credit reporting agency does not have a file
 32 pertaining to a protected consumer when the consumer credit
 33 reporting agency receives a request pursuant to paragraph (1) of
 34 subdivision (a), the consumer credit reporting agency shall create
 35 a record for the protected consumer.

36 (c) Within 30 days after receiving a request that meets the
 37 requirements of subdivision (a), a consumer credit reporting agency
 38 shall place a security freeze for the protected ~~consumer~~. *consumer*
 39 *and send confirmation to the protected consumer that the freeze*
 40 *was placed within 10 days of the placement of the freeze.*

1 (d) Unless a security freeze for a protected consumer is removed
2 pursuant to subdivision (g) or (i), a consumer credit reporting
3 agency shall not release the protected consumer's consumer report,
4 any information derived from the protected consumer's consumer
5 report, or any record created for the protected consumer.

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

9 (1) The protected consumer or the protected consumer's
10 representative requests that the consumer credit reporting agency
11 remove the security freeze in accordance with subdivision (g).

12 (2) The security freeze is removed in accordance with
13 subdivision (i).

14 (f) To remove a security freeze, a protected consumer or a
15 protected consumer's representative shall do all of the following:

16 (1) Submit a request for removal of the security freeze to the
17 consumer credit reporting agency at the address or other point of
18 contact and in the manner specified by the consumer credit
19 reporting agency.

20 (2) Provide to the consumer credit reporting agency:

21 (A) If the request is made by the protected consumer:

22 (i) Proof that the sufficient proof of authority for the protected
23 consumer's representative to act on behalf of the protected
24 consumer is no longer valid.

25 (ii) Sufficient proof of identification of the protected consumer.

26 (B) If the request is made by the representative of a protected
27 consumer:

28 (i) Sufficient proof of identification of the protected consumer
29 and the representative.

30 (ii) Sufficient proof of authority to act on behalf of the protected
31 consumer.

32 (3) Pay to the consumer credit reporting agency a fee as
33 authorized by subdivision (h).

34 (g) Within 30 days after receiving a request that meets the
35 requirements of subdivision (f), a consumer credit reporting agency
36 shall remove a security freeze for a protected consumer.

37 (h) (1) Except as provided in paragraph (2), a consumer credit
38 reporting agency may not charge a fee for any service performed
39 pursuant to this section.

- 1 (2) A consumer credit reporting agency is authorized to charge
2 a reasonable fee, not exceeding ten dollars (\$10), for each
3 placement or removal of a security freeze for a protected consumer.
- 4 (3) Notwithstanding paragraph (2), a consumer credit reporting
5 agency shall not charge any fee pursuant to this section under any
6 of the following circumstances:
- 7 (A) The protected consumer’s representative has received a
8 report of alleged identity ~~fraud~~ *theft* against the protected consumer
9 under Section 530.5 of the Penal Code and has provided copy of
10 the report to the consumer credit reporting agency.
- 11 (B) The request for the placement or removal of a security freeze
12 is for a protected consumer who is under 16 years of age at the
13 time of the request and the consumer credit reporting agency has
14 a report pertaining to the protected consumer.
- 15 (i) A consumer credit reporting agency is authorized to remove
16 a security freeze for a protected consumer or to delete a record of
17 a protected consumer if the security freeze was placed or the record
18 was created based upon a material misrepresentation of fact by the
19 protected consumer or the protected consumer’s representative.
- 20 (j) *A consumer credit reporting agency may develop procedures*
21 *involving the use of telephone, fax, the Internet, or other electronic*
22 *media to receive and process a request for a protected consumer*
23 *credit freeze to be placed or removed.*
- 24 (k) *A consumer credit reporting agency shall notify the protected*
25 *consumer within 10 days if the protected consumer’s frozen credit*
26 *record was released without proper authorization.*