

AMENDED IN ASSEMBLY MARCH 17, 2016

AMENDED IN ASSEMBLY MARCH 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1580

Introduced by Assembly 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 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, upon that consumer's representative's request and compliance with certain requirements. The bill would require a consumer credit reporting agency to send *written confirmation of the security freeze* to the protected consumer that a freeze was placed *consumer's representative* within 10 days of the placement of the *security 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 creditworthiness, credit standing, credit
17 capacity, character, general reputation, personal characteristics,
18 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:

1 (A) Is placed on the protected consumer’s consumer report in
2 accordance with this section.

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

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

11 (1) A court order or relevant enabling document issued by a
12 court.

13 (2) A legally sufficient and valid power of attorney, or a durable
14 power of attorney.

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

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

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

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

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

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

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

34 1785.11.10. Sections 1785.11.9 to 1785.11.11, inclusive, do
35 not apply to the use of a protected ~~consumer~~ *consumer’s* report or
36 record by any of the following:

37 (a) A person or entity listed in subdivision (l) of Section
38 1785.11.2, or Section 1785.11.4 or 1785.11.6.

39 (b) A person administering a credit file monitoring subscription
40 service to which the protected consumer has subscribed or to which

1 the representative of the protected consumer has subscribed on
2 behalf of the protected consumer.

3 (c) A person who provides the protected consumer or the
4 protected consumer's representative with a copy of the protected
5 consumer's consumer report ~~on~~ *at the* request of the protected
6 consumer or *at the request* of the protected consumer's
7 representative.

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

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

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

16 1785.11.11. (a) A consumer credit reporting agency shall place
17 a security freeze for a protected consumer if both of the following
18 occur:

19 (1) The consumer credit reporting agency receives a request
20 from the protected consumer's representative for the placement
21 of the security freeze pursuant to this section.

22 (2) The protected consumer's representative does all of the
23 following:

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

27 (B) Provides to the consumer credit reporting agency sufficient
28 proof of identification of the protected consumer and the
29 representative.

30 (C) Provides to the consumer credit reporting agency sufficient
31 proof of authority to act on behalf of the protected consumer.

32 (D) Pays to the consumer credit reporting agency a fee as
33 authorized by subdivision ~~(h)~~ (i).

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

1 (c) *If a protected consumer's representative requests a security*
2 *freeze, the consumer credit reporting agency shall disclose the*
3 *process for placing and removing a security freeze.*

4 ~~(e)~~

5 (d) *Within 30 days after receiving a request that meets the*
6 *requirements of subdivision (a), a consumer credit reporting agency*
7 *shall place a security freeze for the protected consumer and send*
8 ~~*confirmation*~~ *consumer. The consumer credit reporting agency*
9 *shall send written confirmation of the security freeze to the*
10 ~~*protected consumer that the freeze was placed*~~ *consumer's*
11 *representative within 10 days of the placement of the security*
12 *freeze.*

13 ~~(d)~~

14 (e) *Unless a security freeze for a protected consumer is removed*
15 *pursuant to subdivision ~~(g)~~ or ~~(i)~~, (h) or (j), a consumer credit*
16 *reporting agency shall not release the protected consumer's*
17 *consumer report, any information derived from the protected*
18 *consumer's consumer report, or any record created for the protected*
19 *consumer.*

20 ~~(e)~~

21 (f) *A security freeze for a protected consumer placed pursuant*
22 *to this section shall remain in effect until either of the following*
23 *occurs:*

24 (1) *The protected consumer or the protected consumer's*
25 *representative requests that the consumer credit reporting agency*
26 *remove the security freeze in accordance with subdivision ~~(g)~~. (h).*

27 (2) *The security freeze is removed in accordance with*
28 *subdivision ~~(i)~~. (j).*

29 ~~(f)~~

30 (g) *To remove a security freeze, a protected consumer or a*
31 *protected consumer's representative shall do all of the following:*

32 (1) *Submit a request for removal of the security freeze to the*
33 *consumer credit reporting agency at the address or other point of*
34 *contact and in the manner specified by the consumer credit*
35 *reporting agency.*

36 (2) *Provide to the consumer credit reporting agency:*

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

38 (i) *Proof that the sufficient proof of authority for the protected*
39 *consumer's representative to act on behalf of the protected*
40 *consumer is no longer valid.*

- 1 (ii) Sufficient proof of identification of the protected consumer.
2 (B) If the request is made by the representative of a protected
3 consumer:
- 4 (i) Sufficient proof of identification of the protected consumer
5 and the representative.
6 (ii) Sufficient proof of authority to act on behalf of the protected
7 consumer.
- 8 (3) Pay to the consumer credit reporting agency a fee as
9 authorized by subdivision-~~(h)~~. (i).
- 10 ~~(g)~~
11 (h) Within 30 days after receiving a request that meets the
12 requirements of subdivision-~~(f)~~, (g), a consumer credit reporting
13 agency shall remove a security freeze for a protected consumer.
14 ~~(h)~~
- 15 (i) (1) Except as provided in paragraph (2), a consumer credit
16 reporting agency may not charge a fee for any service performed
17 pursuant to this section.
18 (2) A consumer credit reporting agency is authorized to charge
19 a reasonable fee, not exceeding ten dollars (\$10), for each
20 placement or removal of a security freeze for a protected consumer.
- 21 (3) Notwithstanding paragraph (2), a consumer credit reporting
22 agency shall not charge any fee pursuant to this section under any
23 of the following circumstances:
- 24 (A) The protected consumer's representative has received a
25 report of alleged identity theft against the protected consumer
26 under Section 530.5 of the Penal Code and has provided copy of
27 the report to the consumer credit reporting agency.
- 28 (B) The request for the placement or removal of a security freeze
29 is for a protected consumer who is under 16 years of age at the
30 time of the request and the consumer credit reporting agency has
31 a report pertaining to the protected consumer.
- 32 ~~(i)~~
33 (j) A consumer credit reporting agency is authorized to remove
34 a security freeze for a protected consumer or to delete a record of
35 a protected consumer if the security freeze was placed or the record
36 was created based upon a material misrepresentation of fact by the
37 protected consumer or the protected consumer's representative.
38 ~~(j)~~
- 39 (k) A consumer credit reporting agency may develop procedures
40 involving the use of telephone, fax, the Internet, or other electronic

1 media to receive and process a request for a protected-consumer
2 ~~credit~~ *consumer's security* freeze to be placed or removed.
3 (k) ~~A consumer credit reporting agency shall notify the protected~~
4 ~~consumer within 10 days if the protected consumer's frozen credit~~
5 ~~record was released without proper authorization.~~

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