

HOUSE BILL No. 2134

By Committee on Appropriations

1-27

1 AN ACT concerning consumer credit; relating to security freezes on  
2 protected consumer reports; amending K.S.A. 2014 Supp. 50-702 and  
3 repealing the existing section.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) A consumer reporting agency shall place a  
7 security freeze for a protected consumer if the consumer reporting agency  
8 receives a request from the protected consumer's representative for the  
9 placement of the security freeze and the protected consumer's  
10 representative;

11 (1) Submits the request to the consumer reporting agency at the  
12 address or other point of contact and in the manner specified by the  
13 consumer reporting agency;

14 (2) provides to the consumer reporting agency sufficient proof of  
15 identification of the protected consumer and the representative;

16 (3) provides to the consumer reporting agency sufficient proof of  
17 authority to act on behalf of the protected consumer; and

18 (4) pays to the consumer reporting agency a fee as provided in  
19 subsection (g).

20 (b) If a consumer reporting agency does not have a record pertaining  
21 to a protected consumer when the consumer reporting agency receives a  
22 request under subsection (a), the consumer reporting agency shall create a  
23 record for the protected consumer.

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

27 (d) Unless a security freeze for a protected consumer is removed in  
28 accordance with subsection (f) or (i), a consumer reporting agency shall  
29 not release the protected consumer's consumer report, any information  
30 derived from the protected consumer's consumer report, or any record  
31 created for the protected consumer.

32 (e) A security freeze for a protected consumer placed under  
33 subsection (c) shall remain in effect until:

34 (1) The protected consumer or the protected consumer's  
35 representative requests the consumer reporting agency to remove the  
36 security freeze in accordance with subsection (f); or

the protected consumer reaches  
the age of 18 years old; or

1 (3) a person or entity listed in K.S.A. 2014 Supp. 50-723(i), and  
2 amendments thereto.

3 (1) A consumer reporting agency may remove a security freeze for a  
4 protected consumer or delete a record of a protected consumer if such  
5 security freeze was placed or the record was created based on a material  
6 misrepresentation of a fact by the protected consumer or the protected  
7 consumer's representative.

8 (l) Any person who willfully fails to comply with any requirement  
9 imposed under this section with respect to any protected consumer is liable  
10 to that protected consumer in an amount equal to the sum of:

11 (1) Actual damages sustained by the protected consumer as a result of  
12 the failure of damages of not less than \$100 and not more than \$1,000; or

13 (2) such amount of punitive damages as the court may allow; and

14 (3) in the case of any successful action to enforce any liability under  
15 this section, the costs of the action together with reasonable attorney fees  
16 as determined by the court.

17 (4) Any person who obtains a consumer report, requests a security  
18 freeze, requests the temporary lift of a security freeze, or the removal of a  
19 security freeze from a consumer reporting agency under false pretenses or  
20 in an attempt to violate federal or state law shall be liable to the consumer  
21 reporting agency for actual damages sustained by the consumer reporting  
22 agency or \$1,000, whichever is greater.

23 (l) Any person who is negligent in failing to comply with any  
24 requirement imposed under this section with respect to any protected  
25 consumer is liable to that protected consumer in an amount equal to the  
26 sum of:

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

29 (2) in the case of any successful action to enforce any liability under  
30 this section, the costs of the action together with reasonable attorney fees  
31 as determined by the court.

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

37 (n) This section shall be part of and supplemental to the fair credit  
38 reporting act.

39 Sec. 2. K.S.A. 2014 Supp. 50-702 is hereby amended to read as  
40 follows: 50-702. The following words and phrases when used in the fair  
41 credit reporting act shall have the meanings ascribed to them in this  
42 section.

43 (a) The term "person" means any individual, partnership, corporation,

(1) and (6) through (12) or  
50-724(a)(1) through (5)

shall be liable pursuant to the  
provisions of the fair credit  
reporting act.

(k)