

AMENDMENTS TO LB835

Introduced by Judiciary.

1           1. Strike original section 1 and insert the following new sections:

2           Section 1. Section 8-2601, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4           8-2601 Sections 8-2601 to 8-2615 and sections 4, 9, 10, 11, 13, and  
5 15, shall be known and may be cited as the Credit Report Protection Act.

6           Sec. 2. Section 8-2602, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8           8-2602 For purposes of the Credit Report Protection Act:

9           (1) Consumer reporting agency means any person which, for monetary  
10 fees, for dues, or on a cooperative nonprofit basis, regularly engages in  
11 whole or in part in the practice of assembling or evaluating consumer  
12 credit information or other information on consumers or protected  
13 consumers for the purpose of furnishing consumer reports to third parties  
14 and which uses any means or facility of interstate commerce for the  
15 purpose of preparing or furnishing consumer reports;

16           (2) File, when used in connection with information on any consumer  
17 or protected consumer, means all of the information on that consumer or  
18 protected consumer recorded and retained by a consumer reporting agency  
19 regardless of how the information is stored;

20           (3) Protected consumer means an individual who is (a) under sixteen  
21 years of age at the time a request for the placement of a security freeze  
22 is made or (b) an incapacitated person for whom a guardian or guardian ad  
23 litem has been appointed ~~Minor means a person who is under nineteen years~~  
24 ~~of age;~~

25           (4) Record means a compilation of information that (a) identifies a  
26 protected consumer, (b) is created by a consumer reporting agency solely  
27 for the purpose of complying with section 4 of this act, and (c) may not

1 be created or used to consider the protected consumer's credit  
2 worthiness, credit standing, credit capacity, character, general  
3 reputation, personal characteristics, or mode of living;

4 (5) Representative means a person who provides to a consumer  
5 reporting agency sufficient proof of authority to act on behalf of a  
6 protected consumer;

7 (6 4) Security freeze means:

8 (a) A a notice placed in a consumer's file as provided in section  
9 8-2603 that prohibits the consumer reporting agency from releasing a  
10 credit report, or any other information derived from the file, in  
11 connection with the extension of credit or the opening of a new account,  
12 without the express authorization of the consumer;—and

13 (b) If a consumer reporting agency does not have a file pertaining  
14 to a protected consumer, a restriction that:

15 (i) Is placed on the protected consumer's record in accordance with  
16 section 4 of this act; and

17 (ii) Prohibits the consumer reporting agency from releasing the  
18 protected consumer's record except as provided in section 8-2617; or

19 (c) If a consumer reporting agency has a file pertaining to the  
20 protected consumer, a restriction that:

21 (i) Is placed on the protected consumer's file in accordance with  
22 section 4 of this act; and

23 (ii) Prohibits the consumer reporting agency from releasing the  
24 protected consumer's file or any information derived from the protected  
25 consumer's file except as provided in section 9 of this act;

26 (7) Sufficient proof of authority means documentation that shows a  
27 representative has authority to act on behalf of a protected consumer.  
28 Sufficient proof of authority includes, but is not limited to, an order  
29 issued by a court of law, a lawfully executed and valid power of  
30 attorney, or a written notarized statement signed by a representative  
31 that expressly describes the authority of the representative to act on

1 behalf of a protected consumer. A representative who is a parent may  
2 establish sufficient proof of authority by providing a certified or  
3 official copy of the protected consumer's birth certificate;

4 (8) Sufficient proof of identification means information or  
5 documentation that identifies a consumer, a protected consumer, or a  
6 representative of a protected consumer. Sufficient proof of  
7 identification includes, but is not limited to, a social security number  
8 or a copy of a social security card, a certified or official copy of a  
9 birth certificate, a copy of a valid driver's license, or any other  
10 government-issued identification; and

11 (9 5) Victim of identity theft means a consumer or protected  
12 consumer who has a copy of an official police report evidencing that the  
13 consumer or protected consumer has alleged to be a victim of identity  
14 theft.

15 Sec. 3. Section 8-2603, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 ~~8-2603 A consumer, including a minor at the request of a parent or~~  
18 ~~custodial parent or guardian if appointed,~~ may elect to place a security  
19 freeze on his or her file by submitting a request at the address or other  
20 point of contact and in the manner specified by making a request by  
21 ~~certified mail~~ to the consumer reporting agency.

22 Sec. 4. (1) A consumer reporting agency shall place a security  
23 freeze for a protected consumer on his or her file if:

24 (a) The consumer reporting agency receives a request from the  
25 representative for the placement of the security freeze under this  
26 section; and

27 (b) The representative:

28 (i) Submits the request to the consumer reporting agency at the  
29 address or other point of contact and in the manner specified by the  
30 consumer reporting agency; and

31 (ii) Provides to the consumer reporting agency:

1       (A) Sufficient proof of identification of the protected consumer and  
2       the representative;

3       (B) Sufficient proof of authority to act on behalf of the protected  
4       consumer; and

5       (C) Pays to the consumer reporting agency a fee as provided in  
6       section 13 of this act.

7       (2) If a consumer reporting agency does not have a file pertaining  
8       to a protected consumer when the consumer reporting agency receives a  
9       request described in subsection (1)(a) of this section, the consumer  
10       reporting agency shall create a record for the protected consumer.

11       (3) Within thirty days after receiving a request that meets the  
12       requirements of subsection (1) of this section, a consumer reporting  
13       agency shall place a security freeze on the file of the protected  
14       consumer.

15       Sec. 5. Section 8-2604, Reissue Revised Statutes of Nebraska, is  
16       amended to read:

17       8-2604 If a security freeze is in place with respect to a consumer's  
18       or protected consumer's file, the consumer reporting agency shall not  
19       release a credit report or any other information derived from the file to  
20       a third party without the prior express authorization of the consumer,  
21       protected consumer, or representative. This section does not prevent a  
22       consumer reporting agency from advising a third party that a security  
23       freeze is in effect with respect to a consumer's or protected consumer's  
24       file.

25       Sec. 6. Section 8-2605, Reissue Revised Statutes of Nebraska, is  
26       amended to read:

27       8-2605 (1) A consumer reporting agency shall place a security freeze  
28       on a file no later than three business days after receiving a request  
29       under section 8-2603 by certified mail.

30       (2) Until July 1, 2008, a consumer reporting agency shall, within  
31       ten business days after receiving a request, send a written confirmation

1 of the security freeze to the consumer and provide the consumer with a  
2 unique personal identification number or password to be used by the  
3 consumer when providing authorization for the release of a credit report  
4 or any other information derived from his or her file for a specified  
5 period of time. Beginning July 1, 2008, a consumer reporting agency shall  
6 send such confirmation and provide such identification number or password  
7 to the consumer within five business days after receiving a request.

8 (3) The written confirmation required under subsection (2) of this  
9 section shall include a warning which shall read as follows: WARNING TO  
10 PERSONS SEEKING A CREDIT FREEZE AS PERMITTED BY THE CREDIT REPORT  
11 PROTECTION ACT: YOU MAY BE DENIED CREDIT AS A RESULT OF A FREEZE PLACED  
12 ON YOUR CREDIT.

13 Sec. 7. Section 8-2606, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 8-2606 (1) When a consumer requests a security freeze, the consumer  
16 reporting agency shall disclose the process of placing and temporarily  
17 lifting the security freeze, including the process for allowing access to  
18 his or her credit report or any other information derived from his or her  
19 file for a specified period of time by temporarily lifting the security  
20 freeze.

21 (2) If a consumer wishes to allow the ~~his or her~~ credit report or  
22 any other information derived from the ~~his or her~~ file to be accessed for  
23 a specified period of time by temporarily lifting the security freeze,  
24 the consumer shall contact the consumer reporting agency, request that  
25 the freeze be temporarily lifted, and provide the following:

26 (a) Sufficient proof of identification of the consumer ~~Proper~~  
27 ~~identification, which means that information generally deemed sufficient~~  
28 ~~to identify a person. Only if the consumer is unable to provide~~  
29 ~~sufficiently self-identifying information may a consumer reporting agency~~  
30 ~~require additional information concerning the consumer's employment and~~  
31 ~~personal or family history in order to verify the consumer's identity;~~

1 (b) The unique personal identification number or password provided  
2 by the consumer reporting agency under section 8-2605; and

3 (c) The proper information regarding the specified time period.

4 (3)(a) Until January 1, 2009, a consumer reporting agency that  
5 receives a request from a consumer to temporarily lift a security freeze  
6 on his or her file shall comply with the request no later than three  
7 business days after receiving the request.

8 (b) A consumer reporting agency shall develop procedures involving  
9 the use of a telephone, the Internet, or other electronic media to  
10 receive and process a request from a consumer to temporarily lift a  
11 security freeze on his or her file in an expedited manner. By January 1,  
12 2009, a consumer reporting agency shall comply with a request to  
13 temporarily lift a security freeze within fifteen minutes after receiving  
14 such request by telephone or through a secure electronic method.

15 (4) A consumer reporting agency is not required to temporarily lift  
16 a security freeze within the time provided in subsection (3) of this  
17 section if:

18 (a) The consumer fails to meet the requirements of subsection (2) of  
19 this section; or

20 (b) The consumer reporting agency's ability to temporarily lift the  
21 security freeze within the time provided in subsection (3) of this  
22 section is prevented by:

23 (i) An act of God, including fire, earthquake, hurricane, storm, or  
24 similar natural disaster or phenomena;

25 (ii) An unauthorized or illegal act by a third party, including  
26 terrorism, sabotage, riot, vandalism, labor strike or dispute disrupting  
27 operations, or similar occurrence;

28 (iii) Operational interruption, including electrical failure,  
29 unanticipated delay in equipment or replacement part delivery, computer  
30 hardware or software failure inhibiting response time, or similar  
31 disruption;

1 (iv) Governmental action, including an emergency order or  
2 regulation, judicial or law enforcement action, or similar directive;

3 (v) Regularly scheduled maintenance, during other than normal  
4 business hours, of the consumer reporting agency's system or updates to  
5 such system;

6 (vi) Commercially reasonable maintenance of, or repair to, the  
7 consumer reporting agency's system that is unexpected or unscheduled; or

8 (vii) Receipt of a removal request outside of normal business hours.

9 For purposes of this subsection, normal business hours means Sunday  
10 through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., in the  
11 applicable time zone in this state.

12 Sec. 8. Section 8-2608, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 8-2608 A consumer reporting agency shall remove a security freeze  
15 within three business days after receiving a request for removal from the  
16 consumer who provides both of the following:

17 (1) Sufficient proof of identity of the consumer ~~Proper~~  
18 ~~identification as specified in subdivision (2)(a) of section 8-2606;~~ and

19 (2) The unique personal identification number or password referred  
20 to in subdivision (2)(b) of section 8-2606.

21 Sec. 9. A security freeze for a protected consumer shall remain in  
22 effect unless removed in accordance with section 10 or 11 of this act. A  
23 consumer reporting agency may not release the protected consumer's file,  
24 any information derived from the protected consumer's file, or any record  
25 created for the protected consumer.

26 Sec. 10. If a protected consumer or the representative wishes to  
27 remove a security freeze for the protected consumer, the protected  
28 consumer or the representative shall:

29 (1) Submit a request for the removal of the security freeze to the  
30 consumer reporting agency at the address or other point of contact and in  
31 the manner specified by the consumer reporting agency; and

1           (2) Provide to the consumer reporting agency:

2           (a) In the case of a request by the protected consumer:

3           (i) Proof that the sufficient proof of authority for the  
4 representative to act on behalf of the protected consumer is no longer  
5 valid; and

6           (ii) Sufficient proof of identification of the protected consumer;  
7 or

8           (b) In the case of a request by the representative:

9           (i) Sufficient proof of identification of the protected consumer and  
10 the representative; and

11           (ii) Sufficient proof of authority to act on behalf of the protected  
12 consumer; and

13           (c) Payment of a fee as provided in section 13 of this act.

14           Within thirty days after receiving a request that meets the  
15 requirements of subdivision (1) of this section, the consumer reporting  
16 agency shall remove the security freeze for the protected consumer.

17           Sec. 11. A consumer reporting agency may remove a security freeze  
18 for a protected consumer on his or her file or delete a record of a  
19 protected consumer if the security freeze was placed or the record was  
20 created based on a material misrepresentation of fact by the protected  
21 consumer or the protected consumer's representative.

22           Sec. 12. Section 8-2609, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24           8-2609 (1) A consumer reporting agency may charge a fee of three  
25 dollars for placing, temporarily lifting, or removing a security freeze  
26 unless:

27           (a) The consumer is a minor; or

28           (a) (b)(i) The consumer is a victim of identity theft; and

29           (b ii) The consumer provides the consumer reporting agency with a  
30 copy of an official police report documenting the identity theft.

31           (2) A consumer reporting agency shall reissue the same or a new



1 personal identification number or password required under section 8-2605  
2 one time without charge and may charge a fee of no more than five dollars  
3 for subsequent reissuance of the personal identification number or  
4 password.

5 Sec. 13. Except as provided in subdivision (1) of this section, a  
6 consumer reporting agency shall not charge a fee for any service  
7 performed under this section.

8 (1) A consumer reporting agency may charge a fee in accordance with  
9 section 8-2609, for each placement or removal of a security freeze for a  
10 protected consumer.

11 (2) A consumer reporting agency shall not charge any fee under this  
12 section if:

13 (a)(i) The protected consumer is a victim of identity theft; and

14 (ii) The protected consumer's representative provides the consumer  
15 reporting agency with a copy of an official police report documenting the  
16 identity theft; or

17 (b)(i) A request for the placement or removal of a security freeze  
18 is for a protected consumer who is under the age of sixteen years at the  
19 time of the request; and

20 (ii) The consumer reporting agency has a file pertaining to the  
21 protected consumer.

22 Sec. 14. Section 8-2610, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 8-2610 If a security freeze is in place, a consumer reporting agency  
25 may not change any of the following official information in a file  
26 without sending a written confirmation of the change to the consumer,  
27 protected consumer, or representative within thirty days after the change  
28 is made: Name, date of birth, social security number, and address. In the  
29 case of an address change, the written confirmation shall be sent to both  
30 the new address and the former address. Written confirmation is not  
31 required for technical modifications of a consumer's or protected

1 consumer's official information, including name and street abbreviations,  
2 complete spellings, or transposition of numbers or letters.

3 Sec. 15. Sections 4, 9, 10, 11, and 13 of this act shall not apply  
4 to any person or entity that maintains a data base used solely for the  
5 following:

6 (1) Criminal record information;

7 (2) Personal loss history information;

8 (3) Fraud prevention or detection;

9 (4) Employment screening; or

10 (5) Tenant screening.

11 Sec. 16. Section 8-2611, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 8-2611 (1) A consumer reporting agency may not suggest or otherwise  
14 state or imply to a third party that a security freeze on a consumer's or  
15 protected consumer's file reflects a negative credit score, history,  
16 report, or rating.

17 (2) If a third party requests access to a credit report or any other  
18 information derived from a file in connection with an application for  
19 credit or the opening of an account and the consumer, protected consumer,  
20 or representative has placed a security freeze on his or her file and  
21 does not allow his or her file to be accessed during that specified  
22 period of time, the third party may treat the application as incomplete.

23 Sec. 17. Section 8-2612, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 8-2612 The Credit Report Protection Act does not prohibit a consumer  
26 reporting agency from furnishing to a governmental agency a consumer's or  
27 protected consumer's name, address, former address, place of employment,  
28 or former place of employment.

29 Sec. 18. Section 8-2613, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 8-2613 The Credit Report Protection Act does not apply to the use of

1 a credit report or any information derived from the file by any of the  
2 following:

3 (1) A person or entity, a subsidiary, affiliate, or agent of that  
4 person or entity, an assignee of a financial obligation owing by the  
5 consumer or protected consumer to that person or entity, or a prospective  
6 assignee of a financial obligation owing by the consumer or protected  
7 consumer to that person or entity in conjunction with the proposed  
8 purchase of the financial obligation, with which the consumer or  
9 protected consumer has or had prior to assignment an account or contract,  
10 including a demand deposit account, or to whom the consumer or protected  
11 consumer issued a negotiable instrument, for the purposes of reviewing  
12 the account or collecting the financial obligation owing for the account,  
13 contract, or negotiable instrument. For purposes of this subdivision,  
14 reviewing the account includes activities related to account maintenance,  
15 monitoring, credit line increases, and account upgrades and enhancements;

16 (2) A subsidiary, affiliate, agent, assignee, or prospective  
17 assignee of a person to whom access has been granted under section 8-2606  
18 for purposes of facilitating the extension of credit or other permissible  
19 use;

20 (3) Any federal, state, or local governmental entity, including, but  
21 not limited to, a law enforcement agency, a court, or an agent or  
22 assignee of a law enforcement agency or court;

23 (4) A private collection agency acting under a court order, warrant,  
24 or subpoena;

25 (5) Any person or entity for the purposes of prescreening as  
26 provided for by the federal Fair Credit Reporting Act, 15 U.S.C. 1681, as  
27 such act existed on September 1, 2007;

28 (6) Any person or entity administering a credit file monitoring  
29 subscription service to which the consumer or protected consumer has  
30 subscribed;

31 (7) Any person or entity for the purpose of providing a consumer,

1 protected consumer, or representative with a copy of the consumer's or  
2 protected consumer's credit report or any other information derived from  
3 his or her file upon the consumer's, protected consumer's, or  
4 representative's request; and

5 (8) Any person or entity for use in setting or adjusting a rate,  
6 adjusting a claim, or underwriting for insurance purposes.

7 Sec. 19. Section 8-2614, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 8-2614 The following entities are not consumer reporting agencies  
10 for purposes of the Credit Report Protection Act and are not required to  
11 place a security freeze on a file under section 8-2603:

12 (1) A check services or fraud prevention services company that  
13 issues reports on incidents of fraud or authorizations for the purpose of  
14 approving or processing negotiable instruments, electronic funds  
15 transfers, or similar methods of payment;

16 (2) A deposit account information service company that issues  
17 reports regarding account closures due to fraud, substantial overdrafts,  
18 automatic teller machine abuse, or similar negative information regarding  
19 a consumer or protected consumer, to inquiring banks or other financial  
20 institutions for use only in reviewing a consumer's, protected  
21 consumer's, or representative's ~~consumer~~ request for a deposit account at  
22 the inquiring bank or financial institution; and

23 (3) A consumer reporting agency that acts only as a reseller of  
24 credit information by assembling and merging information contained in the  
25 data base of another consumer reporting agency, or multiple consumer  
26 reporting agencies, and does not maintain a permanent data base of credit  
27 information from which new credit reports are produced. A consumer  
28 reporting agency shall honor any security freeze placed on a file by  
29 another consumer reporting agency.

30 Sec. 20. Section 8-2615, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           8-2615 The Attorney General shall enforce the Credit Report  
2 Protection Act. For purposes of the act, the Attorney General may issue  
3 subpoenas, adopt and promulgate rules and regulations, and seek  
4 injunctive relief and a monetary award for civil penalties, attorney's  
5 fees, and costs. Any person who violates the act shall be subject to a  
6 civil penalty of not more than two thousand dollars for each violation.  
7 The Attorney General may also seek and recover actual damages for each  
8 consumer or protected consumer injured by a violation of the act.

9           Sec. 21. Section 20-149, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11           20-149 Any consumer reporting agency doing business in this state  
12 which is required to furnish information to a consumer, protected  
13 consumer as defined in section 8-2602, or representative as defined in  
14 section 8-2602 pursuant to 15 U.S.C. 1681g to 1681j as such sections  
15 existed on January 1, 2016 ~~they exist on August 26, 1983,~~ shall, upon the  
16 request of such the consumer, protected consumer, or representative and  
17 at a reasonable charge, provide such the consumer, protected consumer, or  
18 representative with a typewritten or photostatic copy of any consumer  
19 report, investigative report, or any credit report or other file  
20 information which it has on file or has prepared concerning such  
21 consumer, protected consumer, or representative, if such consumer,  
22 protected consumer, or representative has complied with 15 U.S.C. 1681h  
23 as such section existed on January 1, 2016 ~~it exists on August 26, 1983.~~  
24 If such report uses a code to convey information about such the consumer,  
25 protected consumer, or representative, such the consumer, protected  
26 consumer, or representative shall be provided with a key to such code.  
27 For the purposes of this section, the definitions found in 15 U.S.C.  
28 1681a as such section existed on January 1, 2016 ~~it exists on August 26,~~  
29 ~~1983,~~ shall apply. Any person violating this section shall be guilty of a  
30 Class IV misdemeanor.

31           Sec. 30. Sections 1 to 21 and 31 of this act become operative on

1 January 1, 2017. The other sections of this act become operative three  
2 calendar months after the adjournment of this legislative session.

3 Sec. 31. Original sections 8-2601, 8-2602, 8-2603, 8-2604, 8-2605,  
4 8-2606, 8-2608, 8-2609, 8-2610, 8-2611, 8-2612, 8-2613, 8-2614, 8-2615,  
5 and 20-149, Reissue Revised Statutes of Nebraska, are repealed.

6 2. On page 15, lines 2 and 3, strike the new matter.

7 3. On page 17, lines 30 and 31, strike the new matter and reinstate  
8 the stricken matter.

9 4. On page 18, lines 4 through 10 and 21, strike the new matter and  
10 reinstate the stricken matter; and in lines 25 through 27 reinstate the  
11 stricken matter.

12 5. On page 19, line 22, strike "8-2603,".

13 6. Renumber the remaining sections accordingly.