

E AND R AMENDMENTS TO LB 757

Introduced by Wishart, 27, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 8-2602, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5           8-2602 For purposes of the Credit Report Protection Act:

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

13           (2) Credit report has the same meaning as consumer report as defined  
14 in 15 U.S.C. 1681a(d);

15           (3) File, when used in connection with information on any consumer  
16 or protected consumer, means all of the information on that consumer or  
17 protected consumer recorded and retained by a consumer reporting agency  
18 regardless of how the information is stored. File does not include a  
19 record;

20           (4) 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;

24           (5) Record means a compilation of information that (a) identifies a  
25 protected consumer, (b) is created by a consumer reporting agency solely  
26 for the purpose of complying with section 8-2603.01, and (c) may not be  
27 created or used to consider the protected consumer's credit worthiness,

1 credit standing, credit capacity, character, general reputation, personal  
2 characteristics, or mode of living;

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

6 (7) Security freeze means:

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

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

14 (i) Is placed on the protected consumer's record in accordance with  
15 section 8-2603.01; and

16 (ii) Prohibits the consumer reporting agency from releasing the  
17 protected consumer's record except as provided in the Credit Report  
18 Protection Act; 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 credit report in  
22 accordance with section 8-2603.01; and

23 (ii) Prohibits the consumer reporting agency from releasing the  
24 protected consumer's credit report or any information derived from the  
25 protected consumer's credit report except as provided in section  
26 8-2608.01;

27 (8) Substantially similar type of security product means any product  
28 that provides the same level of protection to a consumer's or protected  
29 consumer's credit report as that provided under the Credit Report  
30 Protection Act regardless of the contact method used by a consumer or  
31 protected consumer to request, temporarily lift, or remove a restriction

1 placed on the consumer's or protected consumer's credit report;

2       (9) ~~(8)~~ Sufficient proof of authority means documentation that shows  
3 a representative has authority to act on behalf of a protected consumer.  
4 Sufficient proof of authority includes, but is not limited to, an order  
5 issued by a court of law, a lawfully executed and valid power of  
6 attorney, or a written notarized statement signed by a representative  
7 that expressly describes the authority of the representative to act on  
8 behalf of a protected consumer. A representative who is a parent may  
9 establish sufficient proof of authority by providing a certified or  
10 official copy of the protected consumer's birth certificate;

11       (10) ~~(9)~~ Sufficient proof of identification means information or  
12 documentation that identifies a consumer, a protected consumer, or a  
13 representative of a protected consumer. Sufficient proof of  
14 identification includes, but is not limited to, a social security number  
15 or a copy of a social security card, a certified or official copy of a  
16 birth certificate, a copy of a valid driver's license, or any other  
17 government-issued identification; and

18       (11) ~~(10)~~ Victim of identity theft means a consumer or protected  
19 consumer who has a copy of an official police report evidencing that the  
20 consumer or protected consumer has alleged to be a victim of identity  
21 theft.

22       Sec. 2. Section 8-2603.01, Revised Statutes Cumulative Supplement,  
23 2016, is amended to read:

24       8-2603.01 (1) A consumer reporting agency shall place a security  
25 freeze for a protected consumer if:

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

29       (b) The representative:

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

1 consumer reporting agency; and

2 (ii) Provides to the consumer reporting agency:

3 (A) Sufficient proof of identification of the protected consumer and  
4 the representative; and

5 (B) Sufficient proof of authority to act on behalf of the protected  
6 consumer. ~~;~~ ~~and~~

7 ~~(iii) Pays to the consumer reporting agency a fee as provided in~~  
8 ~~section 8-2609.01.~~

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

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

16 Sec. 3. Section 8-2608.02, Revised Statutes Cumulative Supplement,  
17 2016, is amended to read:

18 8-2608.02 If a protected consumer or the representative wishes to  
19 remove a security freeze placed under section 8-2603.01 for the protected  
20 consumer, the protected consumer or the representative shall:

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

24 (2) Provide to the consumer reporting agency:

25 (a) ~~(a)(i)~~ In the case of a request by the protected consumer:

26 (i) ~~(A)~~ Proof that the sufficient proof of authority for the  
27 representative to act on behalf of the protected consumer is no longer  
28 valid; and

29 (ii) ~~(B)~~ Sufficient proof of identification of the protected  
30 consumer; or

31 (b) ~~(ii)~~ In the case of a request by the representative:

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

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

5           ~~(b) Payment of a fee as provided in section 8-2609.01.~~

6           Within thirty days after receiving a request that meets the  
7 requirements of this section, the consumer reporting agency shall remove  
8 the security freeze for the protected consumer.

9           Sec. 4. Section 8-2609, Revised Statutes Cumulative Supplement,  
10 2016, is amended to read:

11           8-2609 (1) A consumer reporting agency shall not ~~may~~ charge any a  
12 fee ~~of three dollars~~ for placing, temporarily lifting, or removing a  
13 security freeze placed under section 8-2603 or for placing, temporarily  
14 lifting, or removing any other substantially similar type of security  
15 product. This subsection does not apply if the substantially similar type  
16 of security product, alone or in combination with another product,  
17 provides greater protection to the consumer than a security freeze.  
18 ~~unless:~~

19           ~~(a) The consumer is a victim of identity theft; and~~

20           ~~(b) The consumer provides the consumer reporting agency with a copy~~  
21 ~~of an official police report documenting the identity theft.~~

22           (2) A consumer reporting agency shall reissue the same or a new  
23 personal identification number or password required under section 8-2605  
24 one time without charge and may charge a fee of no more than five dollars  
25 for subsequent reissuance of the personal identification number or  
26 password.

27           Sec. 5. Section 8-2609.01, Revised Statutes Cumulative Supplement,  
28 2016, is amended to read:

29           8-2609.01 ~~(1)~~ A consumer reporting agency shall not ~~may~~ charge any  
30 a fee ~~of three dollars~~ for each placement or removal of a security freeze  
31 or for placement or removal of any other substantially similar type of

1 security product for a protected consumer. This section does not apply if  
2 the substantially similar type of security product, alone or in  
3 combination with another product, provides greater protection to the  
4 protected consumer than a security freeze.

5 ~~(2) A consumer reporting agency shall not charge any fee under this~~  
6 ~~section if:~~

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

8 ~~(ii) The protected consumer's representative provides the consumer~~  
9 ~~reporting agency with a copy of an official police report documenting the~~  
10 ~~identity theft; or~~

11 ~~(b)(i) A request for the placement or removal of a security freeze~~  
12 ~~is for a protected consumer who is under the age of sixteen years at the~~  
13 ~~time of the request; and~~

14 ~~(ii) The consumer reporting agency has a credit report pertaining to~~  
15 ~~the protected consumer.~~

16 Sec. 6. Section 87-801, Reissue Revised Statutes of Nebraska, is  
17 amended to read:

18 87-801 Sections 87-801 to 87-807 and section 7 of this act shall be  
19 known and may be cited as the Financial Data Protection and Consumer  
20 Notification of Data Security Breach Act of 2006.

21 Sec. 7. (1) To protect personal information from unauthorized  
22 access, acquisition, destruction, use, modification, or disclosure, an  
23 individual or a commercial entity that conducts business in Nebraska and  
24 owns, licenses, or maintains data that includes personal information  
25 about a resident of Nebraska shall implement and maintain reasonable  
26 security procedures and practices that are appropriate to the nature and  
27 sensitivity of the personal information owned, licensed, or maintained  
28 and the nature and size of the business and its operations, including  
29 safeguards that protect the personal information when the individual or  
30 commercial entity disposes of the personal information.

31 (2) An individual or commercial entity that discloses personal

1 information about a Nebraska resident to a nonaffiliated, third-party  
2 service provider shall require by contract that the service provider  
3 implement and maintain reasonable security procedures and practices that:

4 (a) Are appropriate to the nature of the personal information  
5 disclosed to the service provider; and

6 (b) Are reasonably designed to help protect the personal information  
7 from unauthorized access, acquisition, destruction, use, modification, or  
8 disclosure.

9 (3) An individual or a commercial entity complies with subsections  
10 (1) and (2) of this section if the individual or commercial entity:

11 (a) Complies with a state or federal law that provides greater  
12 protection to personal information than the protections that this section  
13 provides; or

14 (b) Complies with the regulations promulgated under Title V of the  
15 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq., or the Health Insurance  
16 Portability and Accountability Act of 1996, 42 U.S.C. 1320d to 1320d-9,  
17 as such acts and sections existed on January 1, 2018, if the individual  
18 or commercial entity is subject to either or both of such acts or  
19 sections.

20 Sec. 8. Section 87-806, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 87-806 (1) For purposes of the Financial Data Protection and  
23 Consumer Notification of Data Security Breach Act of 2006, the Attorney  
24 General may issue subpoenas and seek and recover direct economic damages  
25 for each affected Nebraska resident injured by a violation of section  
26 87-803 the act.

27 (2) A violation of section 7 of this act shall be considered a  
28 violation of section 59-1602 and be subject to the Consumer Protection  
29 Act and any other law which provides for the implementation and  
30 enforcement of section 59-1602.

31 Sec. 9. Original sections 87-801 and 87-806, Reissue Revised

1 Statutes of Nebraska, and sections 8-2602, 8-2603.01, 8-2608.02, 8-2609,  
2 and 8-2609.01, Revised Statutes Cumulative Supplement, 2016, are  
3 repealed.

4 2. On page 1, line 3, after "sections" insert "8-2602,".