

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 757

Introduced by Morfeld, 46.

Read first time January 03, 2018

Committee: Judiciary

1 A BILL FOR AN ACT relating to consumer protection; to amend sections
2 87-801 and 87-806, Reissue Revised Statutes of Nebraska, and
3 sections 8-2603.01, 8-2608.02, 8-2609, and 8-2609.01, Revised
4 Statutes Cumulative Supplement, 2016; to prohibit certain fees under
5 the Credit Report Protection Act; to change provisions relating to
6 the Financial Data Protection and Consumer Notification of Data
7 Security Breach Act of 2006; to require additional reasonable
8 security procedures and practices regarding personal information; to
9 harmonize provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-2603.01, Revised Statutes Cumulative
2 Supplement, 2016, is amended to read:

3 8-2603.01 (1) A consumer reporting agency shall place a security
4 freeze for a protected consumer if:

5 (a) The consumer reporting agency receives a request from the
6 representative for the placement of the security freeze under this
7 section; and

8 (b) The representative:

9 (i) Submits the request to the consumer reporting agency at the
10 address or other point of contact and in the manner specified by the
11 consumer reporting agency; and

12 (ii) Provides to the consumer reporting agency:

13 (A) Sufficient proof of identification of the protected consumer and
14 the representative; and

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

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

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

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

26 Sec. 2. Section 8-2608.02, Revised Statutes Cumulative Supplement,
27 2016, is amended to read:

28 8-2608.02 If a protected consumer or the representative wishes to
29 remove a security freeze placed under section 8-2603.01 for the protected
30 consumer, the protected consumer or the representative shall:

31 (1) Submit a request for the removal of the security freeze to the

1 consumer reporting agency at the address or other point of contact and in
2 the manner specified by the consumer reporting agency; and

3 (2) Provide to the consumer reporting agency:

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

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

8 (ii) ~~(B)~~ Sufficient proof of identification of the protected
9 consumer; or

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

11 (i) ~~(A)~~ Sufficient proof of identification of the protected consumer
12 and the representative; and

13 (ii) ~~(B)~~ Sufficient proof of authority to act on behalf of the
14 protected consumer. ~~;~~ and

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

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

19 Sec. 3. Section 8-2609, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 8-2609 (1) A consumer reporting agency shall not ~~may~~ charge any a
22 fee ~~of three dollars~~ for placing, temporarily lifting, or removing a
23 security freeze placed under section 8-2603 or for placing, temporarily
24 lifting, or removing any other substantially similar type of security
25 product. unless:

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

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

29 (2) A consumer reporting agency shall reissue the same or a new
30 personal identification number or password required under section 8-2605
31 one time without charge and may charge a fee of no more than five dollars

1 for subsequent reissuance of the personal identification number or
2 password.

3 Sec. 4. Section 8-2609.01, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 8-2609.01 ~~(1)~~ A consumer reporting agency shall not ~~may~~ charge any
6 a fee ~~of three dollars~~ for each placement or removal of a security freeze
7 or for placement or removal of any other substantially similar type of
8 security product for a protected consumer.

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

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

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

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

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

20 Sec. 5. Section 87-801, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 87-801 Sections 87-801 to 87-807 and section 6 of this act shall be
23 known and may be cited as the Financial Data Protection and Consumer
24 Notification of Data Security Breach Act of 2006.

25 Sec. 6. (1) To protect personal information from unauthorized
26 access, acquisition, destruction, use, modification, or disclosure, an
27 individual or a commercial entity that conducts business in Nebraska and
28 owns, licenses, or maintains data that includes personal information
29 about a resident of Nebraska shall implement and maintain reasonable
30 security procedures and practices that are appropriate to the nature of
31 the personal information owned, licensed, or maintained and the nature

1 and size of the business and its operations, including safeguards that
2 protect the personal information when the individual or commercial entity
3 disposes of the personal information.

4 (2) An individual or a commercial entity complies with subsection
5 (1) of this section if the individual or commercial entity:

6 (a) Complies with a state or federal law that provides greater
7 protection to personal information than the protections that this section
8 provides; or

9 (b) Complies with the regulations promulgated under Title V of the
10 Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq., as the act existed on
11 January 1, 2018, if the individual or commercial entity is subject to the
12 act.

13 (3) An individual or commercial entity that discloses personal
14 information about a Nebraska resident to a nonaffiliated third party
15 service provider shall require by contract that the third party implement
16 and maintain reasonable security procedures and practices that:

17 (a) Are appropriate to the nature of the personal information
18 disclosed to the nonaffiliated third party; and

19 (b) Are reasonably designed to help protect the personal information
20 from unauthorized access, acquisition, destruction, use, modification, or
21 disclosure.

22 Sec. 7. Section 87-806, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 87-806 (1) For purposes of the Financial Data Protection and
25 Consumer Notification of Data Security Breach Act of 2006, the Attorney
26 General may issue subpoenas and seek and recover direct economic damages
27 for each affected Nebraska resident injured by a violation of section
28 87-803 ~~the act.~~

29 (2) A violation of section 6 of this act shall be considered a
30 violation of section 59-1602 and be subject to the Consumer Protection
31 Act and any other law which provides for the implementation and

1 enforcement of section 59-1602.

2 Sec. 8. Original sections 87-801 and 87-806, Reissue Revised
3 Statutes of Nebraska, and sections 8-2603.01, 8-2608.02, 8-2609, and
4 8-2609.01, Revised Statutes Cumulative Supplement, 2016, are repealed.