

House Bill 130

By: Representatives Hill of the 21st, Mills of the 25th, Meadows of the 5th, England of the 108th, and Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,
2 relative to protection from identity theft, so as to provide for security freezes; to provide for
3 definitions; to provide for procedures for placing, removing, and temporarily lifting a
4 security freeze; to provide for related matters; to provide for an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
9 identity theft, is amended by adding new Code sections to read as follows:

10 "10-1-913.

11 (a) As used in this Code section and in Code Section 10-1-914, the term:

12 (1) 'Consumer' means a natural individual residing in this state.

13 (2) 'Consumer credit report' means any written, oral, or other communication of any
14 information by a consumer credit reporting agency bearing on a consumer's
15 creditworthiness, credit standing, or credit capacity which is used or is expected to be
16 used or collected, in whole or in part, for the purpose of serving as a factor in establishing
17 the consumer's eligibility for any of the following:

18 (A) Credit to be used primarily for personal, family, or household purposes;

19 (B) Employment purposes; or

20 (C) Any other purpose authorized under 15 U.S.C. Section 1681b. The definition of
21 a 'consumer credit report' encompasses the exclusions to the definition of a consumer
22 report as set forth in 15 U.S.C. Section 1681a(d)(2).

23 (3) 'Consumer credit reporting agency' means any person who, for monetary fees, dues,
24 or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice
25 of assembling or evaluating consumer credit information or other information on
26 consumers for the purpose of furnishing consumer credit reports to third parties.

1 (4) 'Person' means any individual, partnership, corporation, trust, estate, cooperative,
2 association, government, or governmental subdivision or agency, or other entity.

3 (5) 'Proper identification' means information generally deemed sufficient to identify a
4 person for consumer reporting agency purposes under 15 U.S.C. Section 1681 et seq.

5 (6) 'Security freeze' means a restriction placed on a consumer credit report at the request
6 of the consumer that prohibits a consumer credit reporting agency from releasing all or
7 any part of the consumer's consumer credit report or any information derived from the
8 consumer's consumer credit report for a purpose relating to the extension of credit
9 without the express authorization of the consumer.

10 10-1-914.

11 (a) A consumer may place a security freeze on the consumer's credit report by making a
12 request in writing by certified mail to a consumer credit reporting agency. A security
13 freeze shall prohibit, subject to exceptions in subsection (l) of this Code section, the
14 consumer credit reporting agency from releasing the consumer's credit report or credit
15 score without the prior express authorization of the consumer as provided in subsection (d)
16 or (e) of this Code section. Nothing in this subsection prevents a consumer credit reporting
17 agency from advising a third party that a security freeze is in effect with respect to the
18 consumer's credit report.

19 (b) A consumer credit reporting agency shall place a security freeze on a consumer's credit
20 report no later than five business days after receiving the consumer's written request sent
21 by certified mail.

22 (c) The consumer credit reporting agency shall send a written confirmation of the security
23 freeze to the consumer within ten business days of placing the security freeze and at the
24 same time shall provide the consumer with a unique personal identification number or
25 password, other than the consumer's social security number, to be used by the consumer
26 when providing authorization for the release of the consumer's credit report for a specific
27 period of time.

28 (d) If the consumer wishes to allow the consumer's credit report to be accessed for a
29 specific period of time while a security freeze is in place, the consumer shall contact the
30 consumer credit reporting agency through the contact method established by the consumer
31 credit reporting agency, request that the security freeze be temporarily lifted, and provide
32 all of the following:

33 (1) Proper identification;

34 (2) The unique personal identification number or password provided by the consumer
35 credit reporting agency pursuant to subsection (c) of this Code section;

1 (3) The proper information regarding the time period for which the report shall be
2 available to users of the consumer credit report; and

3 (4) The proper fee as may be required by the consumer credit reporting agency.

4 (e) A consumer credit reporting agency may develop procedures involving the use of
5 telephone, facsimile, the Internet, or other electronic media to receive and process a request
6 from a consumer to temporarily lift a security freeze on a consumer credit report pursuant
7 to subsection (d) of this Code section.

8 (f) A consumer credit reporting agency that receives a request from a consumer to
9 temporarily lift a security freeze on a consumer credit report pursuant to subsection (d) or
10 (e) of this section shall comply with the request no later than three business days after
11 receiving the request.

12 (g) A consumer credit reporting agency shall remove or temporarily lift a security freeze
13 placed on a consumer's credit report only in the following cases:

14 (1) Upon the consumer's request, pursuant to subsection (d), (e), or (j) of this Code
15 section; and

16 (2) If the consumer's credit report was frozen due to a material misrepresentation of fact
17 by the consumer. If a consumer credit reporting agency intends to remove a security
18 freeze upon a consumer's credit report pursuant to this paragraph, the consumer credit
19 reporting agency shall notify the consumer in writing prior to removing the security
20 freeze on the consumer's credit report.

21 (h) If a third party requests access to a consumer credit report on which a security freeze
22 is in effect and this request is in connection with an application for credit or any other use
23 related to the extension of credit and the consumer does not allow the consumer's credit
24 report to be accessed for that specific period of time, the third party may treat the
25 application as incomplete.

26 (i) If a consumer requests a security freeze pursuant to this Code section, the consumer
27 credit reporting agency shall disclose to the consumer the process of placing and
28 temporarily lifting a security freeze and the process for allowing access to information from
29 the consumer's credit report for a specific period of time while the security freeze is in
30 place.

31 (j) A security freeze shall remain in place until the consumer requests that the security
32 freeze be removed. A consumer credit reporting agency shall remove a security freeze
33 within three business days of receiving a request for removal from the consumer, who shall
34 provide all of the following:

35 (1) Proper identification;

36 (2) The unique personal identification number or password provided by the consumer
37 credit reporting agency pursuant to subsection (c) of this Code section; and

1 (3) The proper fee as may be required by the consumer credit reporting agency.

2 (k) A consumer credit reporting agency shall require proper identification of the person
3 making a request to place, temporarily lift, or remove a security freeze.

4 (l) By way of example only, and not intending to be exclusive, the provisions of this Code
5 section shall not apply to the use of a consumer credit report by any of the following:

6 (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or assignee with
7 whom the consumer has, or prior to assignment had, an account, contract, or
8 debtor-creditor relationship for the purposes of reviewing the active account or collecting
9 the financial obligation owing for the account, contract, or debt;

10 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom
11 access has been granted under subsection (d) of this Code section for purposes of
12 facilitating the extension of credit or other permissible use;

13 (3) Any person acting pursuant to a court order, warrant, or subpoena;

14 (4) A state or local agency, or its agents or assigns, which administers a program for
15 establishing and enforcing child support obligations;

16 (5) A state or local agency, or its agents or assigns, acting to investigate fraud, including
17 Medicaid fraud; acting to investigate or collect delinquent taxes or assessments, including
18 interest, penalties, and unpaid court orders; or acting to fulfill any of its other statutory
19 responsibilities;

20 (6) A federal, state, or local governmental entity, including law enforcement agency,
21 court, or their agent or assigns;

22 (7) Any person for the use of a credit report for purposes permitted under 15 U.S.C.
23 Section 1681b(c);

24 (8) Any person for the sole purpose of providing a credit file monitoring subscription
25 service to which the consumer has subscribed;

26 (9) Any person for the purpose of providing a consumer with a copy of the consumer's
27 credit report or credit score upon the consumer's request;

28 (10) Any depository financial institution for checking, savings, and investment accounts;
29 or

30 (11) Any person or entity for insurance purposes, including use in setting or adjusting
31 a rate, adjusting a claim, or underwriting.

32 (m) If a security freeze is in place, a consumer credit reporting agency shall not change
33 any of the following official information in a credit report without sending a written
34 confirmation of the change to the consumer within 30 days of the change being posted to
35 the consumer's file: name, date of birth, social security number, and address. Written
36 confirmation is not required for technical modifications of a consumer's official
37 information, including name and street abbreviations, complete spellings, or transposition

1 of numbers or letters. In the case of an address change, the written confirmation shall be
2 sent to both the new address and the former address.

3 (n) The following persons shall not be required to place a security freeze in a consumer
4 credit report pursuant to this section; provided, however, that any person that shall not be
5 required to place a security freeze on a consumer credit report under the provisions of
6 paragraph (3) of this subsection shall be subject to any security freeze placed on a
7 consumer credit report by another consumer credit reporting agency from which it obtains
8 information:

9 (1) A check services or fraud prevention services company, including reports on
10 incidents of fraud, or authorizations for the purpose of approving or processing negotiable
11 instruments, electronic funds transfers, or similar methods of payment;

12 (2) A deposit account information service company, which issues reports regarding
13 account closures due to fraud, substantial overdrafts, automated teller machine abuse, or
14 other similar negative information regarding a consumer to inquiring banks or other
15 financial institutions for use only in reviewing a consumer request for a deposit account
16 at the inquiring bank or financial institution;

17 (3) Resellers of consumer credit report information that assemble and merge information
18 contained in a data base of one or more consumer credit reporting agencies and do not
19 maintain a permanent data base of consumer credit information from which new
20 consumer credit reports are produced; or

21 (4) A consumer credit reporting agency's data base or file which consists of information
22 concerning, and used for, one or more of the following: criminal record information,
23 fraud prevention or detection, personal claim loss history information, and employment,
24 tenant, or individual background screening.

25 (o) This Code section shall not prevent a consumer credit reporting agency from charging
26 a fee of no more than \$10.00 to a consumer for each security freeze, removal of the security
27 freeze, or temporary lifting of the security freeze for a period of time, regarding access to
28 a consumer credit report, except that a consumer credit reporting agency may not charge
29 any fee to a victim of identity theft who has submitted a copy of a valid investigative or
30 incident report or complaint with a law enforcement agency about the unlawful use of the
31 victim's identifying information by another person that was filed with the law enforcement
32 agency no more than 90 days prior to the consumer's request for a security freeze. A
33 consumer credit reporting agency may charge a fee of no more than \$5.00 to a consumer
34 for each replacement of a unique personal identification number or password.

35 (p) A person that violates this Code section may be fined by the administrator appointed
36 pursuant to Code Section 10-1-395 not more than \$100.00 for a violation concerning a

1 specific consumer; provided, however, that in no event shall the total fine levied by the
2 administrator exceed \$10,000."

3 **SECTION 2.**

4 This Act shall become effective on July 1, 2007.

5 **SECTION 3.**

6 All laws and parts of laws in conflict with this Act are repealed.