

Senate Bill 361

By: Senators Rogers of the 21st, Hamrick of the 30th, Shafer of the 48th, Grant of the 25th, Goggans of the 7th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide for definitions; to permit a consumer to place a
3 security freeze on his or her credit report; to provide a method for placing and removing a
4 security freeze; to provide exceptions; to prohibit the release of a credit report that is subject
5 to a security freeze, except in certain instances; to allow certain fees to be charged in
6 connection with a security freeze; to regulate changes to a credit report that is subject to a
7 security freeze; to prohibit certain uses of a consumer's personal information; to provide for
8 enforcement; to provide for related matters; to provide an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Georgia Credit Protection Act."

13 **SECTION 2.**

14 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
15 trade practices, is amended by inserting at the end thereof a new article to read as follows:

16 "Article 35

17 10-1-930.

18 As used in this article, the term:

19 (1) 'Consumer' means a natural person.

20 (2) 'Consumer reporting agency' means a person who, for fees, dues, or on a cooperative
21 basis, regularly engages in whole or in part in the practice of assembling or evaluating
22 information concerning a consumer's credit or other information for the purpose of
23 furnishing a credit report to another person.

1 (3) 'Credit report' means a consumer report, as defined in 15 U.S.C. Section 1681a, that
2 is used or collected in whole or in part for the purpose of serving as a factor in
3 establishing a consumer's eligibility for credit for personal, family, or household
4 purposes.

5 (4) 'Normal business hours' means Sunday through Saturday, between the hours of 6:00
6 A.M. and 9:30 P.M., eastern standard or eastern daylight time.

7 (5)(A) 'Personal information' means personally identifiable financial information:

8 (i) Provided by a consumer to another person;

9 (ii) Resulting from any transaction with the consumer or any service performed for
10 the consumer; or

11 (iii) Otherwise obtained by another person.

12 (B) 'Personal information' does not include:

13 (i) Publicly available information, as that term is defined by the regulations
14 prescribed under 15 U.S.C. Section 6804; or

15 (ii) Any list, description, or other grouping of consumers, and publicly available
16 information pertaining to the consumers, that is derived without using any nonpublic
17 personal information.

18 (C) Notwithstanding subparagraph (B) of this paragraph, 'personal information'
19 includes any list, description, or other grouping of consumers, and publicly available
20 information pertaining to the consumers, that is derived using any nonpublic personal
21 information other than publicly available information.

22 (6) 'Proper identification' has the same meaning as in 15 U.S.C. Section 1681h(a) (1),
23 and includes:

24 (A) The consumer's full name, including first, last, and middle names and any suffix;

25 (B) Any name the consumer previously used;

26 (C) The consumer's current and recent full addresses, including street address, any
27 apartment number, city, state, and ZIP code;

28 (D) The consumer's social security number; and

29 (E) The consumer's date of birth.

30 (7) 'Security freeze' means a prohibition, consistent with Code Section 10-1-931, on a
31 consumer reporting agency's furnishing of a consumer's credit report to a third party
32 intending to use the credit report to determine the consumer's eligibility for credit.

33 10-1-931.

34 (a) A consumer may place a security freeze on the consumer's credit report by:

35 (1) Making a request to a consumer reporting agency in writing by certified mail, return
36 receipt requested;

- 1 (2) Providing proper identification; and
- 2 (3) Paying the fee required by the consumer reporting agency in accordance with Code
3 Section 10-1-934.
- 4 (b) If a security freeze is in place, a consumer reporting agency shall not release a
5 consumer's credit report, or information from the credit report, to a third party that intends
6 to use the information to determine a consumer's eligibility for credit without prior
7 authorization from the consumer.
- 8 (c)(1) Notwithstanding subsection (b) of this Code section, a consumer reporting agency
9 may communicate to a third party requesting a consumer's credit report that a security
10 freeze is in effect on the consumer's credit report.
- 11 (2) If a third party requesting a consumer's credit report in connection with the
12 consumer's application for credit is notified of the existence of a security freeze under
13 paragraph (1) of this subsection, the third party may treat the consumer's application as
14 incomplete.
- 15 (d) Upon receiving a request from a consumer under subsection (a) of this Code section,
16 the consumer reporting agency shall:
- 17 (1) Place a security freeze on the consumer's credit report within five business days after
18 receiving the consumer's request;
- 19 (2) Send a written confirmation of the security freeze to the consumer within ten
20 business days after placing the security freeze; and
- 21 (3) Provide the consumer with a unique personal identification number or password to
22 be used by the consumer when providing authorizations for removal or temporary
23 removal of the security freeze under Code Section 10-1-932.
- 24 (e) A consumer reporting agency shall require proper identification of the consumer
25 requesting to place, remove, or temporarily remove a security freeze.
- 26 (f)(1) A consumer reporting agency shall develop a contact method to receive and
27 process a consumer's request to place, remove, or temporarily remove a security freeze.
- 28 (2) A contact method under paragraph (1) of this subsection shall include:
- 29 (A) A postal address;
- 30 (B) An electronic contact method chosen by the consumer reporting agency, which
31 may include the use of fax, Internet, or other electronic means; and
- 32 (C) The use of telephone in a manner that is consistent with any federal requirements
33 placed on the consumer reporting agency.
- 34 (g) A security freeze placed under this Code section shall be removed only in accordance
35 with Code Section 10-1-932.

1 10-1-932.

2 (a) A consumer reporting agency shall remove a security freeze from a consumer's credit
3 report only if:

4 (1)(A) The consumer reporting agency receives the consumer's request through a
5 contact method established and required in accordance with subsection (f) of Code
6 Section 10-1-931; and

7 (B) The consumer reporting agency receives the consumer's proper identification and:

8 (i) Other information sufficient to identify the consumer; or

9 (ii) The consumer provides the consumer's personal identification number or
10 password; or

11 (2) The consumer makes a material misrepresentation of fact in connection with the
12 placement of the security freeze and the consumer reporting agency notifies the consumer
13 in writing before removing the security freeze.

14 (b)(1) A consumer reporting agency shall temporarily remove a security freeze upon
15 receipt of:

16 (A) The consumer's request through the contact method established by the consumer
17 reporting agency in accordance with subsection (f) of Code Section 10-1-931;

18 (B) The consumer's proper identification and:

19 (i) Other information sufficient to identify the consumer; or

20 (ii) Personal identification number or password;

21 (C) A specific designation of the period of time for which the security freeze is to be
22 removed; and

23 (D) The consumer reporting agency receives the payment of any fee required under
24 Code Section 10-1-934.

25 (2) A consumer reporting agency shall remove a security freeze from a consumer's credit
26 report within:

27 (A) Three business days after the business day on which the consumer's written
28 request to remove the security freeze is received by the consumer reporting agency at
29 the postal address chosen by the consumer reporting agency in accordance with
30 subsection (f) of Code Section 10-1-931; or

31 (B) Fifteen minutes after the consumer's request is received by the consumer reporting
32 agency through the electronic contact method chosen by the consumer reporting agency
33 in accordance with subsection (f) of Code Section 10-1-931 or after the use of
34 telephone, during normal business hours, and includes the consumer's proper
35 identification and correct personal identification number or password.

36 (c) A consumer reporting agency need not remove a security freeze within the time
37 provided in subparagraph (b)(2)(B) of this Code section if:

- 1 (1) The consumer fails to meet the requirements of subsection (a) of this Code section;
2 or
3 (2) The consumer reporting agency's ability to remove the security freeze within 15
4 minutes is prevented by:
- 5 (A) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural
6 disaster or phenomena;
 - 7 (B) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,
8 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;
 - 9 (C) Operational interruption, including electrical failure, unanticipated delay in
10 equipment or replacement part delivery, computer hardware or software failures
11 inhibiting response time, or similar disruption;
 - 12 (D) Governmental action, including emergency orders or regulations, judicial or law
13 enforcement action, or similar directives;
 - 14 (E) Regularly scheduled maintenance, during other than normal business hours, of, or
15 updates to, the consumer reporting agency's systems;
 - 16 (F) Commercially reasonable maintenance of, or repair to, the consumer reporting
17 agency's systems that is unexpected or unscheduled; or
18 (G) Receipt of a removal request outside of normal business hours.

19 10-1-933.

20 (a) Notwithstanding Code Section 10-1-931, a consumer reporting agency may furnish a
21 consumer's credit report to a third party if:

22 (1)(A) The purpose of the credit report is to:

- 23 (i) Use the credit report for purposes permitted under 15 U.S.C. Section 1681b(c);
- 24 (ii) Review the consumer's account with the third party, including for account
25 maintenance or monitoring, credit line increases, or other upgrades or enhancements;
26 or
- 27 (iii) Collect on a financial obligation owed by the consumer to the third party
28 requesting the credit report; or

29 (B) The purpose of the credit report is to use the credit report for purposes permitted
30 under 15 U.S.C. Section 1681b(c) and to:

- 31 (i) Review the consumer's account with another person; or
- 32 (ii) Collect on a financial obligation owed by the consumer to another person; or

33 (2) The third party requesting the credit report is a subsidiary, affiliate, agent, assignee,
34 or prospective assignee of the person holding the consumer's account or to whom the
35 consumer owes a financial obligation.

1 (b)(1) The consumer's request for a security freeze does not prohibit the consumer
2 reporting agency from disclosing the consumer's credit report for other than credit related
3 purposes consistent with the definition of credit report found in Code Section 10-1-930.

4 (2) The following types of credit report disclosures by consumer reporting agencies to
5 third parties shall not be prohibited by a security freeze:

6 (A) The third party does not use the credit report for the purpose of serving as a factor
7 in establishing a consumer's eligibility for credit;

8 (B) The third party is acting under a court order, warrant, or subpoena requiring release
9 of the credit report;

10 (C) The third party is a child support agency, or its agent or assignee, acting under Part
11 D, Title IV of the federal Social Security Act or a similar state law;

12 (D) The third party is the federal Department of Health and Human Services or a
13 similar state agency, or its agent or assignee, investigating medicare or Medicaid fraud;

14 (E) The purpose of the credit report is to investigate or collect delinquent taxes,
15 assessments, or unpaid court orders and the third party is:

16 (i) The federal Internal Revenue Service;

17 (ii) A state taxing authority;

18 (iii) The Department of Driver Services;

19 (iv) A county, municipality, or other entity with taxing authority;

20 (v) A federal, state, or local law enforcement agency; or

21 (vi) The agent or assignee of any entity listed in paragraph (2) of subsection (a) of
22 this Code section or divisions (i) through (v) of this division;

23 (F) The third party is administering a credit file monitoring subscription to which the
24 consumer has subscribed; or

25 (G) The third party requests the credit report for the sole purpose of providing the
26 consumer with a copy of the consumer's credit report or credit score upon the
27 consumer's request.

28 (c) Code Section 10-1-931 shall not apply to:

29 (1) A consumer reporting agency, the sole purpose of which is to resell credit
30 information by assembling and merging information contained in the data base of another
31 consumer reporting agency and does not maintain a permanent data base of credit
32 information from which a consumer's credit report is produced;

33 (2) A check services or fraud prevention services company that issues reports on
34 incidents of fraud or authorizations for the purpose of approving or processing negotiable
35 instruments, electronic funds transfers, or similar methods of payment; or

36 (3) A deposit account information service company that issues reports concerning
37 account closures based on fraud, substantial overdrafts, automated teller machine abuse,

1 or similar information concerning a consumer to a requesting financial institution for the
2 purpose of evaluating a consumer's request to create a deposit account.

3 (d) Nothing in this article shall prohibit a person from obtaining, aggregating, or using
4 information lawfully obtained from public records in a manner that does not otherwise
5 violate this article.

6 10-1-934.

7 (a) Except as provided in subsection (b) of this Code section, a consumer reporting agency
8 may charge a reasonable fee to a consumer for placing and temporarily removing a security
9 freeze.

10 (b) A consumer reporting agency shall not charge a fee for placing or removing a security
11 freeze if:

12 (1) The consumer is a victim of identity fraud as defined in Code Section 16-9-121; and

13 (2) The consumer provides the consumer reporting agency with a valid copy of a police
14 report or police case number documenting the identity fraud.

15 10-1-935.

16 (a) If a credit report is subject to a security freeze, a consumer reporting agency shall
17 notify the consumer who is the subject of the credit report within 30 days if the consumer
18 reporting agency changes the consumer's:

19 (1) Name;

20 (2) Date of birth;

21 (3) Social Security number; or

22 (4) Address.

23 (b)(1) Notwithstanding subsection (a) of this Code section, a consumer reporting agency
24 may make technical modifications to information in a credit report that is subject to a
25 security freeze without providing notification to the consumer.

26 (2) Technical modifications under paragraph (1) of this subsection shall include:

27 (A) The addition or subtraction of abbreviations to names and addresses; and

28 (B) Transpositions or corrections of incorrect numbering or spelling.

29 (c) When providing notice of a change of address under subsection (a) of this Code
30 section, the consumer reporting agency shall provide notice to the consumer at both the
31 new address and the former address.

32 10-1-936.

33 (1) Except as otherwise allowed by other law, a person shall not display a Social Security
34 number in a manner or location that is likely to be open to public view.

1 (2) The state, or a branch, agency, or political subdivision of the state, may not employ
2 or contract for the employment of an inmate in any Department of Corrections facility or
3 county jail in any capacity that would allow any inmate access to any other person's
4 personal information.

5 10-1-937.

6 (a) The Attorney General shall enforce the provisions of this article.

7 (b) A person who violates the provisions of this article shall be subject to a civil fine of:

8 (1) Not more than \$2,500.00 for a violation or series of violations concerning a specific
9 consumer; and

10 (2) Not more than \$100,000.00 in the aggregate for related violations concerning more
11 than one consumer.

12 (c) In addition to the penalties provided in subsection (b) of this Code section, the
13 Attorney General may seek injunctive relief to prevent future violations of this article in
14 the Superior Court of Fulton County or the superior court of the county of residence of a
15 consumer who is the subject of a credit report on which a violation occurs."

16 **SECTION 2.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law
18 without such approval and shall apply to all offenses occurring on or after such date.

19 **SECTION 3.**

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