

House Bill 915 (COMMITTEE SUBSTITUTE)

By: Representatives Clark of the 98th, Barr of the 103rd, Peake of the 141st, Ramsey of the 72nd, Williamson of the 115th, and others

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 relating to identity theft, so as to provide for security freezes for minors; to provide for
3 definitions; to provide for requirements for requesting and executing such security freezes;
4 to provide for removal of such security freezes; to provide for fees; to provide for exceptions;
5 to provide for penalties; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
10 identity theft, is amended by revising Code Section 10-1-913, relating to definitions relative
11 to said Code section and to Code Section 10-1-914, as follows:

12 "10-1-913.

13 As used in this Code section, ~~and in Code Section 10-1-914, and Code Section 10-1-914.1,~~
14 the term:

15 (1) 'Consumer' means a natural person residing in this state.

16 (2) 'Consumer credit report' means a 'consumer report' as defined in 15 U.S.C. Section
17 1681a(d) that a consumer reporting agency furnishes to a person which it has reason to
18 believe intends to use the information as a factor in establishing the consumer's eligibility
19 for credit to be used primarily for personal, family, or household purposes.

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

24 (4) 'Normal business hours' means any day, between the hours of 8:00 A.M. and 9:30
25 P.M., ~~Eastern Standard Time~~ eastern standard time.

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- 26 (5) 'Person' means any individual, partnership, corporation, trust, estate, cooperative,
 27 association, government, or governmental subdivision or agency, or other entity.
- 28 (6) 'Proper identification' means information generally deemed sufficient to identify a
 29 person for consumer reporting agency purposes under 15 U.S.C. Section 1681 et seq.
- 30 (7) 'Protected consumer' means an individual who is:
- 31 (A) Under the age of 16 years at the time a request for the placement of a security
 32 freeze is made under subsection (a) of Code Section 10-1-914.1; or
- 33 (B) An individual for whom a guardian or conservator has been appointed.
- 34 (8) 'Record' means a compilation of information about a protected consumer that satisfies
 35 all of the following:
- 36 (A) The compilation identifies the protected consumer; and
- 37 (B) The compilation is created by a consumer credit reporting agency solely for the
 38 purpose of complying with Code Section 10-1-914.1.
- 39 (9) 'Representative' means a person who provides to a consumer credit reporting agency
 40 sufficient proof of authority to act on behalf of a protected consumer.
- 41 ~~(7)~~(10) 'Security freeze' means a restriction placed on a consumer credit report at the
 42 request of the consumer that prohibits a consumer credit reporting agency from releasing
 43 all or any part of the consumer's consumer credit report or any information derived from
 44 the consumer's consumer credit report for a purpose relating to the extension of credit
 45 without the express authorization of the consumer.
- 46 (11) 'Security freeze for a protected consumer' means one of the following:
- 47 (A) If a consumer credit reporting agency does not have a file pertaining to a protected
 48 consumer, a restriction placed on the protected consumer's record that prohibits the
 49 consumer credit reporting agency from releasing the protected consumer's record; or
 50 (B) If a consumer credit reporting agency has a file pertaining to the protected
 51 consumer, a restriction placed on the protected consumer's credit report that prohibits
 52 the consumer credit reporting agency from releasing the protected consumer's credit
 53 report or any information derived from the protected consumer's credit report.
- 54 (12) 'Sufficient proof of authority' means documentation that shows a representative has
 55 authority to act on behalf of a protected consumer, including any of the following:
- 56 (A) An order issued by a court;
- 57 (B) A lawfully executed and valid power of attorney; or
- 58 (C) A written, notarized statement signed by a representative that expressly describes
 59 the authority of the representative to act on behalf of a protected consumer.
- 60 (13) 'Sufficient proof of identification' means information or documentation that
 61 identifies a protected consumer or a representative of a protected consumer, including any
 62 of the following:

- 63 (A) A social security number or a copy of a social security card issued by the Social
 64 Security Administration; or
 65 (B) A certified or official copy of a birth certificate issued by the entity authorized to
 66 issue the birth certificate."

67 **SECTION 2.**

68 Said article is further amended by adding a new Code section to read as follows:

69 "10-1-914.1.

70 (a) A consumer credit reporting agency shall place a security freeze for a protected
 71 consumer if the consumer credit reporting agency receives a request from the protected
 72 consumer's representative for the placement of the security freeze and the protected
 73 consumer's representative:

74 (1) Submits the request to the consumer credit reporting agency at the address or other
 75 point of contact and in the manner specified by the consumer credit reporting agency;

76 (2) Provides to the consumer credit reporting agency sufficient proof of identification of
 77 the protected consumer and the representative;

78 (3) Provides to the consumer credit reporting agency sufficient proof of authority to act
 79 on behalf of the protected consumer; and

80 (4) Pays to the consumer credit reporting agency a fee as provided in subsection (g) of
 81 this Code section.

82 (b) If a consumer credit reporting agency does not have a file pertaining to a protected
 83 consumer when the consumer reporting agency receives a request under subsection (a) of
 84 this Code section, the consumer credit reporting agency shall create a record for the
 85 protected consumer. Upon receiving the request, the consumer credit reporting agency
 86 shall verify that no file exists pertaining to the protected consumer or to the protected
 87 consumer's social security number. A record created under this subsection shall not be
 88 used to consider the protected consumer's creditworthiness, credit standing, credit capacity,
 89 character, general reputation, personal characteristics, or mode of living.

90 (c) Within 30 days after receiving a request that meets the requirements of subsection (a)
 91 of this Code section, a consumer credit reporting agency shall place a security freeze for
 92 the protected consumer.

93 (d) Unless a security freeze for a protected consumer is removed in accordance with
 94 subsection (f) or (i) of this Code section, a consumer credit reporting agency shall not
 95 release the protected consumer's credit report, any information derived from the protected
 96 consumer's credit report, or any record created for the protected consumer.

97 (e) A security freeze for a protected consumer placed under subsection (c) of this Code
 98 section shall remain in effect until:

99 (1) The protected consumer or the protected consumer's representative requests the
100 consumer credit reporting agency to remove the security freeze in accordance with
101 subsection (f) of this Code section; or

102 (2) The security freeze is removed in accordance with subsection (i) of this Code section.

103 (f)(1) If a protected consumer or a protected consumer's representative wishes to remove
104 a security freeze for the protected consumer, the protected consumer or the protected
105 consumer's representative shall:

106 (A) Submit a request for the removal of the security freeze to the consumer credit
107 reporting agency at the address or other point of contact and in the manner specified by
108 the consumer credit reporting agency;

109 (B) Provide to the consumer credit reporting agency sufficient proof of identification
110 of the protected consumer and:

111 (i) For a request by the protected consumer, proof that the sufficient proof of
112 authority for the protected consumer's representative to act on behalf of the protected
113 consumer is no longer valid; or

114 (ii) For a request by the representative of the protected consumer, sufficient proof of
115 identification of the representative and sufficient proof of authority to act on behalf
116 of the protected consumer; and

117 (C) Pay to the consumer credit reporting agency a fee as provided in subsection (g) of
118 this Code section.

119 (2) Within 30 days after receiving a request that meets the requirements of paragraph (1)
120 of this subsection, the consumer credit reporting agency shall remove the security freeze
121 for the protected consumer.

122 (g)(1) Except as otherwise provided in paragraph (2) of this subsection, a consumer
123 credit reporting agency shall not charge a fee for any service performed under this Code
124 section.

125 (2) A consumer credit reporting agency may charge a reasonable fee, not exceeding
126 \$10.00, for each placement or removal of a security freeze for a protected consumer;
127 provided, however, that a consumer credit reporting agency shall not charge any fee
128 under this Code section if:

129 (A) The protected consumer's representative has obtained a police report or affidavit
130 of alleged identity fraud against the protected consumer and provides a copy of the
131 report or affidavit to the consumer credit reporting agency; or

132 (B) A request for the placement or removal of a security freeze is for a protected
133 consumer who is under the age of 16 years at the time of the request and the consumer
134 credit reporting agency has a consumer credit report pertaining to the protected
135 consumer.

136 (h) This Code section shall not apply to the use of a protected consumer's credit report or
 137 record by:

138 (1) A person administering a credit file monitoring subscription service to which the
 139 protected consumer has subscribed or the representative of the protected consumer has
 140 subscribed on behalf of the protected consumer;

141 (2) A person providing the protected consumer or the protected consumer's
 142 representative with a copy of the protected consumer's credit report on request of the
 143 protected consumer or the protected consumer's representative; or

144 (3) A person or entity listed in subsection (m) or (o) of Code Section 10-1-914.

145 (i) A consumer credit reporting agency may remove a security freeze for a protected
 146 consumer or delete a record of a protected consumer if such security freeze was placed or
 147 the record was created based on a material misrepresentation of fact by the protected
 148 consumer or the protected consumer's representative.

149 (j)(1) A person who violates this Code section may be investigated and prosecuted under
 150 the provisions of Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices
 151 Act of 1975,' and may be fined not more than \$100.00 for a violation concerning a
 152 specific protected consumer.

153 (2) The Attorney General may bring an action for temporary or permanent injunctive or
 154 other relief for any violation of this Code section or an action for the penalty authorized
 155 in paragraph (1) of this subsection."

156 **SECTION 3.**

157 This Act shall become effective on January 1, 2015.

158 **SECTION 4.**

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