

Senate Bill 376

By: Senators Shafer of the 48th, Kirk of the 13th, Albers of the 56th, Thompson of the 14th,
Heath of the 31st and others

AS PASSED SENATE

**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 prohibit consumer credit reporting agencies from charging
3 a fee for placing or removing a security freeze on a consumer's account; to repeal conflicting
4 laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

7 Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
8 identity theft, is amended by revising Code Section 10-1-914, relating to consumer requested
9 security freeze on credit report, timing, notifications, temporary lifting of freeze, application,
10 and fees, as follows:

11 "10-1-914.

12 (a) A consumer may place a security freeze on the consumer's credit report by making a
13 request in writing by certified mail to a consumer credit reporting agency. No later than
14 August 1, 2008, a consumer credit reporting agency shall make available to consumers an
15 Internet based method of requesting a security freeze and a toll-free telephone number for
16 consumers to use to place a security freeze, temporarily lift a security freeze, or completely
17 remove a security freeze. A security freeze shall prohibit, subject to exceptions in
18 subsection (m) of this Code section, the consumer credit reporting agency from releasing
19 the consumer's credit report or credit score without the prior express authorization of the
20 consumer as provided in subsection (d) or (e) of this Code section. Nothing in this
21 subsection prevents a consumer credit reporting agency from advising a third party that a
22 security freeze is in effect with respect to the consumer's credit report.

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

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

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

37 (1) Proper identification;

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

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

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

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

47 (f) A consumer credit reporting agency that receives a request from a consumer to
48 temporarily lift a security freeze on a consumer credit report pursuant to subsection (d) or
49 (e) of this Code section shall comply with the request:

50 (1) No later than three business days after receiving a written request; or

51 (2) Within 15 minutes after the request and payment are received by telephone or
52 electronically by the contact method chosen by the consumer credit reporting agency
53 during normal business hours and the request includes the consumer's proper
54 identification, correct personal identification number or password, and the proper
55 payment as may be required by the consumer credit reporting agency.

56 (g) A consumer credit reporting agency need not remove a security freeze within 15
57 minutes, as specified in paragraph (2) of subsection (f) of this Code section, if:

58 (1) The consumer fails to satisfy the requirements of subsection (d) of this Code section;
59 or

60 (2) The consumer credit reporting agency's ability to remove the security freeze within
61 15 minutes is prevented by:

- 62 (A) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural
63 disaster or phenomenon;
- 64 (B) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,
65 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;
- 66 (C) Operational interruption, including electrical failure, unanticipated delay in
67 equipment or replacement part delivery, computer hardware or software failures
68 inhibiting response time, or similar disruption;
- 69 (D) Governmental action, including emergency orders or regulations, judicial or law
70 enforcement action, or similar directives;
- 71 (E) Regularly scheduled maintenance or updates, during other than normal business
72 hours, to the consumer credit reporting agency's systems;
- 73 (F) Commercially reasonable maintenance of, or repair to, the consumer credit
74 reporting agency's systems that is unexpected or unscheduled; or
- 75 (G) Receipt of a removal request outside of normal business hours.
- 76 (h) A consumer credit reporting agency shall only remove or temporarily lift a security
77 freeze placed on a consumer's credit report:
- 78 (1) Upon the consumer's request, in compliance with the requirements of this Code
79 section; or
- 80 (2) If the consumer's credit report was frozen due to a material misrepresentation of fact
81 by the consumer. If a consumer credit reporting agency intends to remove a security
82 freeze upon a consumer's credit report pursuant to this paragraph, the consumer credit
83 reporting agency shall notify the consumer in writing prior to removing the security
84 freeze on the consumer's credit report.
- 85 (i) If a third party requests access to a consumer credit report on which a security freeze
86 is in effect and this request is in connection with an application for credit or any other use
87 related to the extension of credit and the consumer does not allow the consumer's credit
88 report to be accessed for that specific period of time, the third party may treat the
89 application as incomplete.
- 90 (j) If a consumer requests a security freeze pursuant to this Code section, the consumer
91 credit reporting agency shall disclose to the consumer the process of placing and
92 temporarily lifting a security freeze and the process for allowing access to information from
93 the consumer's credit report for a specific period of time while the security freeze is in
94 place.
- 95 (k) A security freeze shall remain in place until the consumer requests that the security
96 freeze be removed. A consumer credit reporting agency shall remove a security freeze
97 within three business days of receiving a request for removal from the consumer. The
98 consumer shall provide all of the following:

- 99 (1) Proper identification; and
- 100 (2) The unique personal identification number or password provided by the consumer
- 101 credit reporting agency pursuant to subsection (c) of this Code section; ~~and~~
- 102 ~~(3) The proper fee as may be required by the consumer credit reporting agency.~~
- 103 (l) A consumer credit reporting agency shall require proper identification of the person
- 104 making a request to place, temporarily lift, or remove a security freeze.
- 105 (m) By way of example only, and not intending to be exclusive, the provisions of this
- 106 Code section shall not apply to the use of a consumer credit report by any of the following:
- 107 (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or assignee with
- 108 whom the consumer has, or prior to assignment had, an account, contract, or
- 109 debtor-creditor relationship for the purposes of reviewing the active account or collecting
- 110 the financial obligation owing for the account, contract, or debt;
- 111 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom
- 112 access has been granted under subsection (d) of this Code section for purposes of
- 113 facilitating the extension of credit or other permissible use;
- 114 (3) Any person acting pursuant to a court order, warrant, or subpoena;
- 115 (4) A state or local agency, or its agents or assigns, which administers a program for
- 116 establishing and enforcing child support obligations;
- 117 (5) A state or local agency, or its agents or assigns, acting to investigate fraud, including
- 118 Medicaid fraud; acting to investigate or collect delinquent taxes or assessments, including
- 119 interest, penalties, and unpaid court orders; or acting to fulfill any of its other statutory
- 120 responsibilities;
- 121 (6) A federal, state, or local governmental entity, including a law enforcement agency,
- 122 court, or its agents or assigns;
- 123 (7) Any person for the use of a credit report for purposes permitted under 15 U.S.C.
- 124 Section 1681b(c);
- 125 (8) Any person for the sole purpose of providing a credit file monitoring subscription
- 126 service to which the consumer has subscribed;
- 127 (9) Any person for the purpose of providing a consumer with a copy of the consumer's
- 128 credit report or credit score upon the consumer's request;
- 129 (10) Any depository financial institution for checking, savings, and investment accounts;
- 130 or
- 131 (11) Any person or entity for insurance purposes, including use in setting or adjusting
- 132 a rate, adjusting a claim, or underwriting.
- 133 (n) If a security freeze is in place, a consumer credit reporting agency shall not change any
- 134 of the following official information in a credit report without sending a written
- 135 confirmation of the change to the consumer within 30 days of the change being posted to

136 the consumer's file: name, date of birth, social security number, and address. Written
 137 confirmation is not required for technical modifications of a consumer's official
 138 information, including name and street abbreviations, complete spellings, or transposition
 139 of numbers or letters. In the case of an address change, the written confirmation shall be
 140 sent to both the new address and the former address.

141 (o) The following persons shall not be required to place a security freeze in a consumer
 142 credit report pursuant to this Code section; provided, however, that any person that shall
 143 not be required to place a security freeze on a consumer credit report under the provisions
 144 of paragraph (3) of this subsection shall be subject to any security freeze placed on a
 145 consumer credit report by another consumer credit reporting agency from which it obtains
 146 information:

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

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

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

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

163 ~~(p) This Code section shall not prevent a consumer credit reporting agency from charging~~
 164 ~~a fee of no more than \$3.00 to a consumer for each security freeze placement, any~~
 165 ~~permanent removal of the security freeze, or any temporary lifting of the security freeze~~
 166 ~~for a period of time. A consumer credit reporting agency shall not charge a person age 65~~
 167 ~~or over for the placement of a security freeze. A consumer credit reporting agency shall~~
 168 ~~not charge any fee to a victim of identity theft who has submitted a copy of a valid~~
 169 ~~investigative or incident report or complaint with a law enforcement agency about the~~
 170 ~~unlawful use of the victim's identifying information by another person that was filed with~~
 171 ~~the law enforcement agency no more than 90 days prior to the consumer's request for a~~
 172 ~~security freeze. A consumer credit reporting agency may charge a fee of no more than~~

173 ~~\$5.00 to a consumer for each replacement of a unique personal identification number or~~
 174 ~~password.~~

175 (q) A person that violates this Code section may be investigated and prosecuted under the
 176 provisions of the Fair Business Practices Act, Code Section 10-1-390, et seq., and may be
 177 fined not more than \$100.00 for a violation concerning a specific consumer."

178 **SECTION 2.**

179 Said article is further amended by revising Code Section 10-1-914.1, relating to security
 180 freezes for protected consumers, as follows:

181 "10-1-914.1.

182 (a) A consumer credit reporting agency shall place a security freeze for a protected
 183 consumer if the consumer credit reporting agency receives a request from the protected
 184 consumer's representative for the placement of the security freeze and the protected
 185 consumer's representative:

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

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

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

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

194 (b) If a consumer credit reporting agency does not have a file pertaining to a protected
 195 consumer when the consumer credit reporting agency receives a request under subsection
 196 (a) of this Code section, the consumer credit reporting agency shall create a record for the
 197 protected consumer. Upon receiving the request, the consumer credit reporting agency
 198 shall verify that no file exists pertaining to the protected consumer or to the protected
 199 consumer's social security number. A record created under this subsection shall not be
 200 used to consider the protected consumer's creditworthiness, credit standing, credit capacity,
 201 character, general reputation, personal characteristics, or mode of living.

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

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

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

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

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

215 (f)(1) If a protected consumer or a protected consumer's representative wishes to remove
216 a security freeze for the protected consumer, the protected consumer or the protected
217 consumer's representative shall:

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

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

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

226 (ii) For a request by the representative of the protected consumer, sufficient proof of
227 identification of the representative and sufficient proof of authority to act on behalf
228 of the protected consumer; ~~and~~

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

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

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

237 ~~(2) A consumer credit reporting agency may charge a reasonable fee, not exceeding~~
238 ~~\$10.00, for each placement or removal of a security freeze for a protected consumer;~~
239 ~~provided, however, that a consumer credit reporting agency shall not charge any fee~~
240 ~~under this Code section if:~~

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

244 ~~(B) A request for the placement or removal of a security freeze is for a protected~~
245 ~~consumer who is under the age of 16 years at the time of the request and the consumer~~

246 ~~credit reporting agency has a consumer credit report pertaining to the protected~~
247 ~~consumer.~~

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

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

253 (2) A person providing the protected consumer or the protected consumer's
254 representative with a copy of the protected consumer's credit report on request of the
255 protected consumer or the protected consumer's representative; or

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

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

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

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

268 **SECTION 3.**

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