



HOUSE BILL 607: Allow Protected Consumer Security Freezes

2015-2016 General Assembly

Committee:
Introduced by:
Analysis of: S.L. 2015-193

Date:
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SUMMARY: *S.L. 2015-193 requires a credit reporting agency to place a security freeze on a protected consumer's consumer report or file upon request of the protected consumer's authorized representative.*

This act becomes effective January 1, 2016.

CURRENT LAW: G.S. 75-63 allows a consumer to freeze access to a protected consumer's consumer report¹ held by a consumer reporting agency. G.S. 75-63(o1) allows a parent or guardian of a minor to make inquiries concerning the existence of a credit report for the minor, and requires the consumer reporting agency to make reasonable efforts to prevent providing a credit report on the minor. These provisions are part of the Identity Theft Protection Act, Article 2A of Chapter 75 of the General Statutes.

BILL ANALYSIS: **Section 1** of the act amends G.S. 75-61 to add definitions of the following terms as used in the Identity Theft Protection Act: "protected consumer," "protected consumer security freeze," "protected consumer's file," "representative," "sufficient proof of authority," and "sufficient proof of identity." "Protected consumer" is defined as a person who is under the age of 16, is incapacitated, or for whom a guardian or guardian ad litem has been appointed.

Section 2 repeals G.S. 75-63(o1).

Section 3 enacts new G.S. 75-63.1, "Security freeze for protected consumers," which permits a protected consumer's representative to request a consumer reporting agency to place a security freeze on a protected consumer's credit report or file.

The request must be submitted in the manner and to the address specified by the agency, must provide sufficient identification of the representative and of the protected consumer, and must provide sufficient proof of the representative's authority to act for the protected consumer, and the requester must pay the agency a fee not to exceed \$5.00.

Within 30 days of its receipt of a valid request for a security freeze, the consumer reporting agency is required to do one of the following things, depending on whether the agency already has a consumer report for the protected consumer:

- If the agency has no consumer report it must create a protected consumer's file and restrict it so as to prohibit release of the file or the creation of any credit report.
- If the agency has a consumer report it must prohibit the release of the report and any information contained in it.

¹ A "consumer report" is defined as any communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living used or expected to be used or collected for the purpose of serving as a factor in establishing a consumer's eligibility for credit, for employment purposes or any other purpose permitted under federal law. G.S. 75-61(3).

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The security freeze remains in effect until either the protected consumer or his or her representative requests its removal, with payment of a fee not to exceed \$5.00, or until the agency determines that the freeze was placed based on a material misrepresentation of fact. The security freeze is removed within 30 days of the occurrence of either event.

No fee is payable for placing or removing a security freeze if the representative submits documentation showing that the protected consumer's identifying information has been unlawfully used by another person, or if the request is for a protected consumer under the age of 16 for whom the agency has a consumer report.

The provisions of new G.S. 75-63.1 are subject to the exceptions currently permitting the use of a consumer credit report by certain entities under G.S. 75-63. In addition, a consumer reporting agency is not required to place a security freeze on a credit report pursuant to this section if it maintains a database or file with information that is used solely for one or more of the following purposes but not for credit granting purposes:

- Reporting of criminal record information.
- Fraud prevention or detection.
- Reporting personal loss history information.
- Employment, tenant, or other individual background screening.

A violation of G.S. 75-63.1 is an unfair and deceptive trade practice in violation of G.S. 75-1.1.

Section 4 amends G.S. 130A-101 to add a new subsection (h) requiring the person responsible for preparing a birth certificate to provide the child's mother, father, or legal guardian with information about how to request a protected consumer security freeze for the child under G.S. 75-63.1 and explaining the potential benefits of doing so.

EFFECTIVE DATE: This act becomes effective January 1, 2016.

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