

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1017
Judiciary I Committee Substitute Adopted 5/12/09
House Committee Substitute Favorable 7/8/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1017-PCS15315-RN-43

Short Title: Enhance Protections Against Identity Theft.

(Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO ENHANCE PROTECTIONS AGAINST IDENTITY THEFT AND TO
PROTECT THE CREDIT OF CRIME VICTIMS DURING THE PENDENCY OF CRIME
VICTIMS COMPENSATION FUND APPLICATIONS AND APPEALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 75-63 reads as rewritten:

"§ 75-63. Security freeze.

(a) A consumer may place a security freeze on the consumer's credit report by making a request ~~in writing by certified mail to~~ a consumer reporting agency in accordance with this subsection. A security freeze shall prohibit, subject to exceptions in subsection (l) of this section, the consumer reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. When a security freeze is in place, a consumer reporting agency may not release the consumer's credit report or information to a third party without prior express authorization from the consumer. This subsection does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit ~~report~~, provided that the consumer reporting agency does not state or otherwise imply to the third party that the consumer's security freeze reflects a negative credit score, history, report, or rating. A consumer reporting agency shall place a security freeze on a consumer's credit report if the consumer requests a security freeze by any of the following methods:

(1) First-class mail.

(2) Telephone call.

(3) Secure Web site or secure electronic mail connection.

(a1) A nationwide consumer reporting agency, as defined in section 603(p) [15 U.S.C. § 1681a(p)] of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., that receives a request from a consumer residing in this State to place a security freeze on the consumer's file, shall provide a notice communicating to the consumer that the freeze is only placed with the consumer reporting agency to which the consumer directed the request. The notice shall provide to the consumer the Web site, postal address, and telephone number of the other nationwide consumer reporting agencies and of the North Carolina Attorney General's Office and shall inform the consumer that he or she may use this information to contact other nationwide consumer reporting agencies to make security freeze requests and obtain



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1 information on combating identity theft. No part of the notice to the consumer shall be used to
2 make a solicitation for other goods and services.

3 (b) A consumer reporting agency shall place a security freeze on a consumer's credit
4 report no later than ~~five~~three business days after receiving a written request from the
5 ~~consumer~~ consumer by mail. A consumer reporting agency that receives such a request
6 electronically or by telephone shall comply with the request within 24 hours of receiving the
7 request.

8 (c) The consumer reporting agency shall send a written confirmation of the security
9 freeze to the consumer within ~~40~~three business days of placing the freeze and at the same time
10 shall provide the consumer with a unique personal identification number or password, other
11 than the consumer's social security number, to be used by the consumer when providing
12 authorization for the release of the consumer's credit report for a specific period of ~~time~~time, or
13 to a specific party, or for permanently lifting the freeze.

14 (d) If the consumer wishes to allow the consumer's credit report to be accessed for a
15 specific period of time or by a specific party while a freeze is in place, the consumer shall
16 contact the consumer reporting ~~agency~~ agency by mail, phone, or electronically, request that
17 the freeze be ~~temporarily lifted~~, lifted or lifted with respect to a specific party, and provide all
18 of the following:

19 (1) Proper identification.

20 (2) The unique personal identification number or password provided by the
21 consumer reporting agency pursuant to subsection (c) of this section.

22 (3) The proper information regarding the third party who is authorized to
23 receive the consumer credit report or the time period for which the report
24 shall be available to users of the credit report.

25 ~~(e) A consumer reporting agency may develop procedures involving the use of~~
26 ~~telephone, fax, the Internet, or other electronic media to receive and process a request from a~~
27 ~~consumer to temporarily lift a freeze on a credit report pursuant to subsection (d) of this section~~
28 ~~in an expedited manner.~~

29 (f) A consumer reporting agency that receives a request by mail from a consumer to
30 ~~temporarily~~ lift a freeze on a credit report pursuant to subsection (d) of this section shall
31 comply with the request no later than three business days after receiving the request. A
32 consumer reporting agency that receives such a request electronically or by telephone shall
33 comply with the request within 15 minutes of receiving the request.

34 (g) A consumer reporting agency shall ~~remove or temporarily lift~~place, remove,
35 temporarily lift, or lift with respect to a specific third party a freeze placed on a consumer's
36 credit report only in the following cases:

37 (1) Upon the consumer's request, pursuant to subsections (d) or (j) of this
38 section.

39 (2) If the consumer's credit report was frozen due to a material
40 misrepresentation of fact by the consumer. If a consumer reporting agency
41 intends to remove a freeze upon a consumer's credit report pursuant to this
42 subdivision, the consumer reporting agency shall notify the consumer in
43 writing prior to removing the freeze on the consumer's credit report.

44 (g1) A consumer reporting agency need not meet the time requirements provided in this
45 section, only for such time as the occurrences prevent compliance, if any of the following
46 occurrences apply:

47 (1) The consumer fails to meet the requirements of subsection (d) or (j) of this
48 section.

49 (2) The consumer reporting agency's ability to remove, temporarily lift, or lift
50 with respect to a specific party the security freeze is prevented by any of the
51 following:

- 1 a. An act of God, including fire, earthquakes, hurricanes, storms, or
2 similar natural disaster or phenomena.
- 3 b. Unauthorized or illegal acts by a third party, including terrorism,
4 sabotage, riot, vandalism, labor strikes or disputes disrupting
5 operations, or similar occurrences.
- 6 c. Operational interruption, including electrical failure, unanticipated
7 delay in equipment or replacement part delivery, computer hardware
8 or software failures inhibiting response time, or similar disruption.
- 9 d. Governmental action, including emergency orders or regulations,
10 judicial or law enforcement action, or similar directives.
- 11 e. Regularly scheduled maintenance, during other than normal business
12 hours, of, or updates to, the consumer reporting agency's systems.
- 13 f. Commercially reasonable maintenance of, or repair to, the consumer
14 reporting agency's systems that is unexpected or unscheduled.
- 15 g. Receipt of a removal request outside of normal business hours.
- 16 (h) If a third party requests access to a consumer credit report on which a security
17 freeze is in effect and this request is in connection with an application for credit or any other
18 use and the consumer does not allow the consumer's credit report to be accessed for that
19 specific period of time, the third party may treat the application as incomplete.
- 20 (i) If a consumer requests a security freeze pursuant to this section, the consumer
21 reporting agency shall disclose to the consumer the process of placing and temporarily lifting a
22 security freeze and the process for allowing access to information from the consumer's credit
23 report for a specific period of time or to a specific third party while the security freeze is in
24 place.
- 25 (j) A security freeze shall remain in place until the consumer requests that the security
26 freeze be temporarily lifted for a specific period of time or to a specific third party or removed.
27 A consumer reporting agency shall remove a security freeze within ~~three business days~~ 15
28 minutes of receiving ~~aan electronic~~ request for removal from the consumer or within three
29 business days of receiving a written or telephonic request for removal from the consumer, who
30 provides all of the following:
- 31 (1) Proper identification.
- 32 (2) The unique personal identification number or password provided by the
33 consumer reporting agency pursuant to subsection (c) of this section.
- 34 (k) A consumer reporting agency shall require proper identification of the person
35 making a request to place or remove a security freeze.
- 36 (l) The provisions of this section do not apply to the use of a consumer credit report by
37 any of the following:
- 38 (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or
39 assignee with whom the consumer has, or prior to assignment had, an
40 account, contract, or debtor-creditor relationship for the purposes of
41 reviewing the active account or collecting the financial obligation owing for
42 the account, contract, or debt.
- 43 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to
44 whom access has been granted under subsection (d) of this section for
45 purposes of facilitating the extension of credit or other permissible use.
- 46 (3) Any person acting pursuant to a court order, warrant, or subpoena.
- 47 (4) A state or local agency, or its agents or assigns, which administers a program
48 for establishing and enforcing child support obligations.
- 49 (5) A state or local agency, or its agents or assigns, acting to investigate fraud,
50 including Medicaid fraud, or acting to investigate or collect delinquent taxes

1 or assessments, including interest and penalties, unpaid court orders, or to
2 fulfill any of its other statutory responsibilities.

3 (6) A federal, state, or local governmental entity, including law enforcement
4 agency, court, or their agent or assigns.

5 (7) A person for the purposes of prescreening as defined by the Fair Credit
6 Reporting Act, 15 U.S.C. § 1681, et seq.

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

9 (9) A consumer reporting agency for the purpose of providing a consumer with
10 a copy of the consumer's credit report upon the consumer's request.

11 (10) Any depository financial institution for checking, savings, and investment
12 accounts.

13 (11) Any property and casualty insurance company for use in setting or adjusting
14 a rate, adjusting a claim, or underwriting for property and casualty insurance
15 purposes.

16 (12) A person for the purpose of furnishing or using credit reports for
17 employment purposes pursuant to 15 U.S.C. § 1681b(b) or tenant screening
18 pursuant to 15 U.S.C. § 1681b(a)(3)(F).

19 (13) A person for the purpose of criminal background record information.

20 (m) If a security freeze is in place, a consumer reporting agency shall not change any of
21 the following official information in a credit report without sending a written confirmation of
22 the change to the consumer within 30 days of the change being posted to the consumer's file:
23 name, date of birth, social security number, and address. Written confirmation is not required
24 for technical modifications of a consumer's official information, including name and street
25 abbreviations, complete spellings, or transposition of numbers or letters. In the case of an
26 address change, the written confirmation shall be sent to both the new address and the former
27 address.

28 (n) The following persons are not required to place in a credit report a security freeze
29 pursuant to this section provided, however, that any person that is not required to place a
30 security freeze on a credit report under the provisions of subdivision (3) of this subsection shall
31 be subject to any security freeze placed on a credit report by another consumer reporting
32 agency from which it obtains information:

33 (1) A check services or fraud prevention services company, which reports on
34 incidents of fraud or issues authorizations for the purpose of approving or
35 processing negotiable instruments, electronic fund transfers, or similar
36 methods of payment.

37 (2) A deposit account information service company, which issues reports
38 regarding account closures due to fraud, substantial overdrafts, ATM abuse,
39 or other similar negative information regarding a consumer to inquiring
40 banks or other financial institutions for use only in reviewing a consumer
41 request for a deposit account at the inquiring bank or financial institution.

42 (3) A consumer reporting agency that does all of the following:

43 a. Acts only to resell credit information by assembling and merging
44 information contained in a database of one or more credit reporting
45 agencies.

46 b. Does not maintain a permanent database of credit information from
47 which new credit reports are produced.

48 (o) ~~This section does not prevent a consumer reporting agency from charging a fee of~~
49 ~~no more than ten dollars (\$10.00) to a consumer for each freeze, removal of the freeze, or~~
50 ~~temporary lifting of the freeze for a period of time, regarding access to a consumer credit~~
51 ~~report.~~ A consumer reporting agency shall not charge a fee to put a security freeze in place,

1 remove a freeze, or lift a freeze pursuant to subsection (d) or (j) of this section, provided that
2 any such request is made electronically. If a request to put a security freeze in place is made by
3 telephone or by mail, a consumer reporting agency may charge a fee to a consumer not to
4 exceed three dollars (\$3.00), except that a consumer reporting agency may not charge any fee
5 to a consumer over the age of 62, to a victim of identity theft who has submitted a copy of a
6 valid investigative or incident report or complaint with a law enforcement agency about the
7 unlawful use of the victim's identifying information by another ~~person~~-person, or to the victim's
8 spouse. A consumer reporting agency shall not charge an additional fee to a consumer who
9 requests to temporarily lift for a specific period of time or to a specific third party, reinstate, or
10 remove a security freeze. A consumer reporting agency shall not charge a consumer for a
11 onetime reissue of a replacement personal identification number. A consumer reporting agency
12 may charge a fee not to exceed three dollars (\$3.00) to provide any subsequent replacement
13 personal identification number.

14 (o1) A parent or guardian of a minor residing in this State may, upon appropriate proof
15 of identity and proof of their relationship to the minor, inquire of a nationwide consumer
16 reporting agency, as defined in section 603(p) [15 U.S.C. § 1681a(p)] of the federal Fair Credit
17 Reporting Act, 15 U.S.C. § 1681, et seq., as to the existence of a credit report for the minor of
18 the parent or guardian. If a credit report for the minor exists, the nationwide consumer reporting
19 agency shall make reasonable efforts to prevent providing a credit report on the minor until the
20 minor reaches the age of majority. If a credit report for the minor does not exist, the nationwide
21 consumer reporting agency has no obligation to create one.

22 (p) At any time that a consumer is required to receive a summary of rights required
23 under section 609 of the federal Fair Credit Reporting Act, the following notice shall be
24 included:
25

26 **North Carolina Consumers Have the Right to Obtain a Security Freeze.**

27

28 You have a right to place a "security freeze" on your credit report pursuant to North
29 Carolina law. The security freeze will prohibit a consumer reporting agency from releasing any
30 information in your credit report without your express authorization. A security freeze ~~must~~can
31 be requested in writing by ~~certified mail~~-first-class mail, by telephone, or electronically. You
32 also may request a freeze by visiting the following Web site: [URL] or calling the following
33 telephone number: [NUMBER].

34 The security freeze is designed to prevent credit, loans, and services from being approved in
35 your name without your consent. However, you should be aware that using a security freeze to
36 take control over who gains access to the personal and financial information in your credit
37 report may delay, interfere with, or prohibit the timely approval of any subsequent request or
38 application you make regarding new loans, credit, mortgage, insurance, rental housing,
39 employment, investment, license, cellular phone, utilities, digital signature, Internet credit card
40 transactions, or other services, including an extension of credit at point of sale.

41 The freeze will be placed within ~~five~~three business ~~days~~days if you request it by mail, or
42 within 24 hours if you request it by telephone or electronically. When you place a security
43 freeze on your credit report, within ~~10~~-three business days, you will be ~~provided~~sent a personal
44 identification number or a password to use when you want to remove ~~or lift temporarily the~~
45 security freeze-the security freeze, temporarily lift it, or lift it with respect to a particular third
46 party.

47 A freeze does not apply when you have an existing account relationship and a copy of your
48 report is requested by your existing creditor or its agents or affiliates for certain types of
49 account review, collection, fraud control, or similar activities.

50 You should plan ahead and lift a freeze if you are actively seeking credit or services as a
51 security freeze may slow your applications, as mentioned above.

1 You can remove a ~~freeze or authorize temporary access for a specific period of time~~freeze,
2 temporarily lift a freeze, or lift a freeze with respect to a particular third party by contacting the
3 consumer reporting agency and providing all of the following:

- 4 (1) Your personal identification number or password,
- 5 (2) Proper identification to verify your identity, and
- 6 (3) Proper information regarding the period of time you want your report
7 available to users of the credit ~~report~~report, or the third party with respect to
8 which you want to lift the freeze.

9 A consumer reporting agency that receives a request from you to temporarily lift a freeze or
10 to lift a freeze with respect to a particular third party on a credit report shall comply with the
11 request no later than three business days after receiving the ~~request~~request by mail and no later
12 than 15 minutes after receiving a request by telephone or electronically. A consumer reporting
13 agency may charge you up to ~~ten dollars (\$10.00)~~three dollars (\$3.00) for each time you ~~freeze,~~
14 ~~remove the freeze, or temporarily lift the freeze for a period of time, except a consumer~~
15 ~~reporting agency may not charge any amount to a victim of identify theft who has submitted a~~
16 ~~copy of a valid investigative or incident report or complaint with a law enforcement agency~~
17 ~~about the unlawful use of the victim's identifying information by another person~~to institute a
18 freeze if your request is made by telephone or by mail. A consumer reporting agency may not
19 charge you any amount to freeze, remove a freeze, temporarily lift a freeze, or lift a freeze with
20 respect to a particular third party, if any of the following are true:

- 21 (1) Your request is made electronically.
- 22 (2) You are over the age of 62.
- 23 (3) You are the victim of identity theft and have submitted a copy of a valid
24 investigative or incident report or complaint with a law enforcement agency
25 about the unlawful use of your identifying information by another person, or
26 you are the spouse of such a person.

27 You have a right to bring a civil action against someone who violates your rights under the
28 credit reporting laws. The action can be brought against a consumer reporting agency or a user
29 of your credit report.'

30 (q) A violation of this section is a violation of G.S. 75-1.1."

31 **SECTION 2.** G.S. 75-65 reads as rewritten:

32 **"§ 75-65. Protection from security breaches.**

33 (a) Any business that owns or licenses personal information of residents of North
34 Carolina or any business that conducts business in North Carolina that owns or licenses
35 personal information in any form (whether computerized, paper, or otherwise) shall provide
36 notice to the affected person that there has been a security breach following discovery or
37 notification of the breach. The disclosure notification shall be made without unreasonable
38 delay, consistent with the legitimate needs of law enforcement, as provided in subsection (c) of
39 this section, and consistent with any measures necessary to determine sufficient contact
40 information, determine the scope of the breach and restore the reasonable integrity, security,
41 and confidentiality of the data system. For the purposes of this section, personal information
42 shall not include electronic identification numbers, electronic mail names or addresses, Internet
43 account numbers, Internet identification names, parent's legal surname prior to marriage, or a
44 password unless this information would permit access to a person's financial account or
45 resources.

46 (b) Any business that maintains or possesses records or data containing personal
47 information of residents of North Carolina that the business does not own or license, or any
48 business that conducts business in North Carolina that maintains or possesses records or data
49 containing personal information that the business does not own or license shall notify the owner
50 or licensee of the information of any security breach immediately following discovery of the

1 breach, consistent with the legitimate needs of law enforcement as provided in subsection (c) of
2 this section.

3 (c) The notice required by this section shall be delayed if a law enforcement agency
4 informs the business that notification may impede a criminal investigation or jeopardize
5 national or homeland security, provided that such request is made in writing or the business
6 documents such request contemporaneously in writing, including the name of the law
7 enforcement officer making the request and the officer's law enforcement agency engaged in
8 the investigation. The notice required by this section shall be provided without unreasonable
9 delay after the law enforcement agency communicates to the business its determination that
10 notice will no longer impede the investigation or jeopardize national or homeland security.

11 (d) The notice shall be clear and conspicuous. The notice shall include ~~a description~~ all
12 of the following:

- 13 (1) ~~The A description of the~~ incident in general terms.
- 14 (2) ~~The A description of the~~ type of personal information that was subject to the
15 unauthorized access and acquisition.
- 16 (3) ~~The A description of the~~ general acts of the business to protect the personal
17 information from further unauthorized access.
- 18 (4) A telephone number for the business that the person may call for further
19 information and assistance, if one exists.
- 20 (5) Advice that directs the person to remain vigilant by reviewing account
21 statements and monitoring free credit reports.
- 22 (6) The toll-free numbers and addresses for the major consumer reporting
23 agencies.
- 24 (7) The toll-free numbers, addresses, and Web site addresses for the Federal
25 Trade Commission and the North Carolina Attorney General's Office, along
26 with a statement that the individual can obtain information from these
27 sources about preventing identity theft.

28 (e) For purposes of this section, notice to affected persons may be provided by one of
29 the following methods:

- 30 (1) Written notice.
- 31 (2) Electronic notice, for those persons for whom it has a valid e-mail address
32 and who have agreed to receive communications electronically if the notice
33 provided is consistent with the provisions regarding electronic records and
34 signatures for notices legally required to be in writing set forth in 15 U.S.C.
35 § 7001.
- 36 (3) Telephonic notice provided that contact is made directly with the affected
37 persons.
- 38 (4) Substitute notice, if the business demonstrates that the cost of providing
39 notice would exceed two hundred fifty thousand dollars (\$250,000) or that
40 the affected class of subject persons to be notified exceeds 500,000, or if the
41 business does not have sufficient contact information or consent to satisfy
42 subdivisions (1), (2), or (3) of this subsection, for only those affected
43 persons without sufficient contact information or consent, or if the business
44 is unable to identify particular affected persons, for only those unidentifiable
45 affected persons. Substitute notice shall consist of all the following:
 - 46 a. E-mail notice when the business has an electronic mail address for
47 the subject persons.
 - 48 b. Conspicuous posting of the notice on the Web site page of the
49 business, if one is maintained.
 - 50 c. Notification to major statewide media.

1 (e1) In the event a business provides notice to an affected person pursuant to this section,
2 the business shall notify without unreasonable delay the Consumer Protection Division of the
3 Attorney General's Office of the nature of the breach, the number of consumers affected by the
4 breach, steps taken to investigate the breach, steps taken to prevent a similar breach in the
5 future, and information regarding the timing, distribution, and content of the notice.

6 (f) In the event a business provides notice to more than 1,000 persons at one time
7 pursuant to this section, the business shall notify, without unreasonable delay, the Consumer
8 Protection Division of the Attorney General's Office and all consumer reporting agencies that
9 compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. §
10 1681a(p), of the timing, distribution, and content of the notice.

11 (g) Any waiver of the provisions of this Article is contrary to public policy and is void
12 and unenforceable.

13 (h) A financial institution that is subject to and in compliance with the Federal
14 Interagency Guidance Response Programs for Unauthorized Access to Consumer Information
15 and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal
16 Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of
17 the Currency, and the Office of Thrift Supervision, and any revisions, additions, or
18 substitutions relating to said interagency guidance, shall be deemed to be in compliance with
19 this section.

20 (i) A violation of this section is a violation of G.S. 75-1.1. No private right of action
21 may be brought by an individual for a violation of this section unless such individual is injured
22 as a result of the violation.

23 (j) Causes of action arising under this Article may not be assigned."

24 **SECTION 3.** G.S. 132-1.10 is amended by adding a new subsection to read:

25 "(f1) Without a request made pursuant to subsection (f) of this section, a register of deeds
26 or clerk of court may remove from an image or copy of an official record placed on a register of
27 deeds' or clerk of court's Internet Web site available to the general public, or placed on an
28 Internet Web site available to the general public used by a register of deeds or clerk of court to
29 display public records, a person's social security or drivers license number contained in that
30 official record. Registers of deeds and clerks of court may apply optical character recognition
31 technology or other reasonably available technology to official records placed on Internet Web
32 sites available to the general public in order to, in good faith, identify and redact social security
33 and drivers license numbers."

34 **SECTION 4.** The Conference of Clerks of Superior Court shall, in consultation
35 with the registers of deeds, annually study the status of the individual counties and judicial
36 districts as to whether or not the clerks of superior court or the registers of deeds are
37 implementing this act and report results of the study to the Joint Legislative Commission on
38 Governmental Operations on or before March 1 of each year.

39 **SECTION 5.** G.S. 15B-2 reads as rewritten:

40 "**§ 15B-2. Definitions.**

41 As used in this Article, the following definitions apply, unless the context requires
42 otherwise:

- 43 (1) ~~"Allowable expense" means reasonable~~ Allowable expense. – Reasonable
44 charges incurred for reasonably needed products, services, and
45 accommodations, including those for medical care, rehabilitation,
46 medically-related property, and other remedial treatment and care.

47 Allowable expense includes a total charge not in excess of five thousand
48 dollars (\$5,000) for expenses related to funeral, cremation, and burial,
49 including transportation of a body, but excluding expenses for flowers,
50 gravestone, and other items not directly related to the funeral service.

1 Allowable expense for medical care, counseling, rehabilitation,
 2 medically-related property, and other remedial treatment and care of a victim
 3 shall be limited to sixty-six and two-thirds percent (66 2/3%) of the amount
 4 usually charged by the provider for the treatment or care. By accepting the
 5 compensation paid as allowable expense pursuant to this subdivision, the
 6 provider agrees that the compensation is payment in full for the treatment or
 7 care and shall not charge or otherwise hold a claimant financially
 8 responsible for the cost of services in addition to the amount of allowable
 9 expense.

10 (2) ~~"Claimant" means any~~ Claimant. – Any of the following persons who claims
 11 an award of compensation under this Article:

- 12 a. A victim;
- 13 b. A dependent of a deceased victim;
- 14 c. A third person who is not a collateral source and who provided
 15 benefit to the victim or his family other than in the course or scope of
 16 his employment, business, or profession;
- 17 d. A person who is authorized to act on behalf of a victim, a dependent,
 18 or a third person described in subdivision c.

19 The claimant, however, may not be the offender or an accomplice of the
 20 offender who committed the criminally injurious conduct.

21 (3) ~~"Collateral source" means a~~ Collateral source. – A source of benefits or
 22 advantages for economic loss otherwise compensable that the victim or
 23 claimant has received or that is readily available to the victim or the claimant
 24 from any of the following sources:

- 25 a. The offender.
- 26 b. The government of the United States or any of its agencies, a state or
 27 any of its political subdivisions, or an instrumentality of two or more
 28 states.
- 29 c. Social Security, Medicare, or Medicaid.
- 30 d. State-required, temporary, nonoccupational disability insurance.
- 31 e. Worker's compensation.
- 32 f. Wage continuation programs of any employer.
- 33 g. Proceeds of a contract of insurance payable to the victim for loss that
 34 the victim sustained because of the criminally injurious conduct.
- 35 h. A contract providing prepaid hospital and other health care services,
 36 or benefits for disability.
- 37 i. A contract of insurance that will pay for expenses directly related to a
 38 funeral, cremation, and burial, including transportation of a body.

39 (4) ~~"Commission" means the~~ Commission. – The Crime Victims Compensation
 40 Commission established by G.S. 15B-3.

41 (4a) Consumer reporting agency. – As defined in G.S. 75-61(4).

42 (4b) Credit report. – As defined in G.S. 75-61(3).

43 (5) ~~"Criminally injurious conduct" means conduct~~ Criminally injurious conduct.
 44 – Conduct that by its nature poses a substantial threat of personal injury or
 45 death, and is punishable by fine or imprisonment or death, or would be so
 46 punishable but for the fact that the person engaging in the conduct lacked the
 47 capacity to commit the crime under the laws of this State. Criminally
 48 injurious conduct includes conduct that amounts to an offense involving
 49 impaired driving as defined in G.S. 20-4.01(24a), and conduct that amounts
 50 to a violation of G.S. 20-166 if the victim was a pedestrian or was operating
 51 a vehicle moved solely by human power or a mobility impairment device.

1 For purposes of this Article, a mobility impairment device is a device that is
2 designed for and intended to be used as a means of transportation for a
3 person with a mobility impairment, is suitable for use both inside and
4 outside a building, and whose maximum speed does not exceed 12 miles per
5 hour when the device is being operated by a person with a mobility
6 impairment. Criminally injurious conduct does not include conduct arising
7 out of the ownership, maintenance, or use of a motor vehicle when the
8 conduct is punishable only as a violation of other provisions of Chapter 20
9 of the General Statutes. Criminally injurious conduct shall also include an
10 act of terrorism, as defined in 18 U.S.C. § 2331, that is committed outside of
11 the United States against a citizen of this State.

12 (6) ~~"Dependent" means an~~Dependent. – An individual wholly or substantially
13 dependent upon the victim for care and support and includes a child of the
14 victim born after his death.

15 (7) ~~"Dependent's economic loss" means loss~~Dependent's economic loss. – Loss
16 after a victim's death of contributions of things of economic value to his
17 dependents, not including services they would have received from the victim
18 if he had not suffered the fatal injury, less expenses of the dependents
19 avoided by reason of the victim's death.

20 (8) ~~"Dependent's replacement service loss" means loss~~Dependent's replacement
21 service loss. – Loss reasonably incurred by dependents after a victim's death
22 in obtaining ordinary and necessary services in lieu of those the victim
23 would have performed for their benefit if he had not suffered the fatal injury,
24 less expenses of the dependents avoided by reason of the victim's death and
25 not subtracted in calculating dependent's economic loss.

26 Dependent's replacement service loss will be limited to a 26-week period
27 commencing from the date of the injury and compensation shall not exceed
28 two hundred dollars (\$200.00) per week.

29 (9) ~~"Director" means the~~Director. – The Director of the Commission appointed
30 under G.S. 15B-3(g).

31 (10) ~~"Economic loss" means economic~~Economic loss. – Economic detriment
32 consisting only of allowable expense, work loss, replacement services loss,
33 and household support loss. If criminally injurious conduct causes death,
34 economic loss includes a dependent's economic loss and a dependent's
35 replacement service loss. Noneconomic detriment is not economic loss, but
36 economic loss may be caused by pain and suffering or physical impairment.

37 (10a) ~~"Household support loss" means the~~Household support loss. – The loss of
38 support that a victim would have received from the victim's spouse for the
39 purpose of maintaining a home or residence for the victim and the victim's
40 dependents. A victim may be compensated fifty dollars (\$50.00) per week
41 for each dependent child. Compensation for household support loss shall not
42 exceed three hundred dollars (\$300.00) per week and shall be limited to 26
43 weeks commencing from the date of the injury. A victim may receive only
44 one compensation for household support loss. Household support loss is
45 only available to an unemployed victim whose spouse is the offender who
46 committed the criminally injurious conduct that is the basis of the victim's
47 claim under this act.

48 (11) ~~"Noneconomic detriment" means pain,~~Noneconomic detriment. – Pain,
49 suffering, inconvenience, physical impairment, or other nonpecuniary
50 damage.

(12) ~~"Replacement services loss" means expenses~~ Replacement services loss. – Expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

Replacement service loss will be limited to a 26-week period commencing from the date of the injury, and compensation may not exceed two hundred dollars (\$200.00) per week.

(12a) ~~"Substantial evidence" means relevant~~ Substantial evidence. – Relevant evidence that a reasonable mind might accept as adequate to support a conclusion.

(13) ~~"Victim" means a~~ Victim. – A person who suffers personal injury or death proximately caused by criminally injurious conduct.

(14) ~~"Work loss" means loss~~ Work loss. – Loss of income from work that the injured person would have performed if he had not been injured and expenses reasonably incurred by him to obtain services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him, or by income he would have earned in available appropriate substitute work that he was capable of performing but unreasonably failed to undertake.

Compensation for work loss will be limited to 26 weeks commencing from the date of the injury, and compensation shall not exceed three hundred dollars (\$300.00) per week. A claim for work loss will be paid only upon proof that the injured person was gainfully employed at the time of the criminally injurious conduct and, by physician's certificate, that the injured person was unable to work."

SECTION 6. Chapter 15B of the General Statutes is amended by adding a new section to read:

"§ 15B-26. Crime victims credit protection.

(a) A creditor that is owed money for services provided to a victim as a result of the criminally injurious conduct inflicted on the victim shall not communicate any information about the debt to a consumer reporting agency during the pendency of an application for an award filed pursuant to G.S. 15B-7 or during the pendency of an appeal from a decision related to such an application.

(b) The victim bears the burden of notifying the creditor that the debt is subject to subsection (a) of this section.

(c) A creditor may request monthly verification from the Commission that the application or appeal is still pending, and the Commission shall provide this verification."

SECTION 7. Chapter 75 of the General Statutes is amended by adding a new Article to read:

"Article 6.

"Credit Monitoring Services Act.

"§ 75-123. Title.

This Article shall be known and may be cited as the 'Credit Monitoring Services Act.'

"§ 75-124. Definitions.

The following definitions apply in this Article:

(1) Credit monitoring service. – Any person who offers, for a fee or compensation, to obtain, provide, or monitor a credit report on behalf of a consumer, or to assist a consumer in obtaining or monitoring the consumer's credit report, and provides or purports to provide the foregoing services. The term also includes any person who offers, for a fee or compensation, to obtain or provide a fraud alert on behalf of a consumer or to assist a

1 consumer in obtaining such fraud alert. The term does not include the
2 following activities of a consumer reporting agency, as defined in section
3 603(f) [15 U.S.C. § 1681a(f)] of the federal Fair Credit Reporting Act,
4 provided that, while the excluded activities themselves do not fall within the
5 definition of the term 'credit monitoring service' none of these excluded
6 activities exempts a consumer reporting agency from the duty to provide the
7 notice required under G.S. 75-125 where the sale of a credit monitoring
8 service occurs as a result of an offer for the credit monitoring service made
9 at a time during communications involving such activities:

- 10 a. Providing a credit report to another party that monitors a credit report
11 on behalf of a consumer;
12 b. Providing a disclosure to a consumer of the information in the
13 consumer's file pursuant to section 609(a) [15 U.S.C. § 1681g(a)] of
14 the federal Fair Credit Reporting Act and also imposing a charge
15 permitted under section 612(f) [15 U.S.C. § 1681j(f)] of the federal
16 Fair Credit Reporting Act;
17 c. Providing the disclosure of a score pursuant to section 609(f) [15
18 U.S.C. § 1681g(f)] of the federal Fair Credit Reporting Act and also
19 imposing a charge permitted under section 609(f)(8) [15 U.S.C. §
20 1681g(f)(8)] of the federal Fair Credit Reporting Act;
21 d. Providing a notice required by G.S. 75-63(m); or
22 e. Providing a monitoring service to individuals who receive a notice
23 provided by a person who experienced a security breach and where
24 the monitoring service was paid for by the person who experienced
25 the security breach.

26 (2) Consumer report. – As defined in G.S. 75-61(3).

27 (3) Consumer. – An individual.

28 (4) Fraud alert. – As defined in the federal Fair Credit Reporting Act, 15 U.S.C.
29 § 1681c-1.

30 (5) Person. – Any individual, partnership, corporation, association, business
31 establishment, or any other legal or commercial entity.

32 **"§ 75-125. Required disclosure.**

33 (a) Prior to charging or collecting any fee or compensation from a consumer for
34 obtaining, providing, or monitoring the consumer's credit report on behalf of the consumer, a
35 credit monitoring service shall provide a clear and conspicuous written description of a
36 consumer's right to one free credit report per year pursuant to section 612(a) [15 U.S.C. §
37 1681j(a)] of the federal Fair Credit Reporting Act, and how to obtain those credit reports from
38 each of the nationwide consumer reporting agencies, as defined in section 603(p) [15 U.S.C. §
39 1681a(p)] of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.

40 (b) If the credit monitoring service is offered and fees are collected during a telephone
41 call, the notice required by subsection (a) of this section will be offered in the same manner.

42 (c) A violation of this section is a violation of G.S. 75-1.1, except that compliance with
43 the requirement that the notice required by this section be clear and conspicuous shall be
44 enforced exclusively by the Attorney General under G.S. 75-15."

45 **SECTION 8.** This act becomes effective October 1, 2009.