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SESSION 2015

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HOUSE BILL 607
Committee Substitute Favorable 4/29/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H607-PCS10422-TG-43

Short Title: Allow Protected Consumer Security Freezes.

(Public)

Sponsors:

Referred to:

April 13, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE PLACEMENT OF A PROTECTED CONSUMER
3 SECURITY FREEZE ON A PROTECTED CONSUMER'S CREDIT REPORT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 75-61 reads as rewritten:

6 "§ 75-61. Definitions.

7 The following definitions apply in this Article:

8 ...

9 (11a) "Protected consumer". – An individual (i) who is under the age of 16 at the
10 time a request for the placement of a security freeze is made pursuant to
11 G.S. 75-63.1 or (ii) who is incapacitated or for whom a guardian or guardian
12 ad litem has been appointed.

13 (11b) "Protected consumer security freeze". – A security freeze placed on a
14 protected consumer's credit report or on a protected consumer's file pursuant
15 to G.S. 75-63.1.

16 (11c) "Protected consumer's file". – A record that (i) identifies a protected
17 consumer, (ii) is created by a consumer reporting agency solely for the
18 purpose of complying with the requirements of G.S. 75-63.1, and (iii) may
19 not be created or used to consider the protected consumer's credit
20 worthiness, credit standing, credit capacity, character, general reputation,
21 personal characteristics, or mode of living.

22 ...

23 (13a) "Representative". – A person who provides to a consumer reporting agency
24 sufficient proof of authority to act on behalf of a protected consumer.

25 ...

26 (16) "Sufficient proof of authority". – Either of the following:

27 a. A certified or official copy of the protected consumer's birth
28 certificate, if the representative is a parent of the protected consumer.

29 b. Documentation that shows that a representative has authority to act
30 on behalf of a protected consumer, including the following:

31 1. An order issued by a court of law.

32 2. A valid power of attorney.

33 3. A written, notarized statement signed by the person that
34 expressly describes the authority of the representative to act
35 on behalf of a protected consumer.



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- 1 (17) "Sufficient proof of identification". – Information or documentation that
2 identifies a protected consumer or representative, including the following:
3 a. A Social Security number or a copy of a Social Security card issued
4 by the Social Security Administration.
5 b. A certified or official copy of a birth certificate issued by the entity
6 authorized to issue the birth certificate.
7 c. A copy of a drivers license, an identification card issued by the
8 Division of Motor Vehicles, or any other government-issued
9 identification.
10 d. A copy of a bill, including a bill for telephone, sewer, septic tank,
11 water, electric, oil, or natural gas service, that shows a name and
12 home address."

13 **SECTION 2.** G.S. 75-63(o1) is repealed.

14 **SECTION 3.** Article 2A of Chapter 75 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 75-63.1. Security freeze for protected consumers.**

17 (a) Obligation to Place Security Freeze. – A consumer reporting agency shall place a
18 protected consumer security freeze on the protected consumer's credit report or on the protected
19 consumer's file in accordance with subsection (b) of this section within 30 days of all of the
20 following conditions being satisfied:

- 21 (1) The consumer reporting agency receives a request under this section from
22 the protected consumer's representative for the placement of the protected
23 consumer security freeze by any of the following methods:
24 a. First-class mail.
25 b. Telephone call.
26 c. Secure Web site or secure electronic mail connection.
27 (2) The protected consumer's representative does all of the following:
28 a. Submits the request to the consumer reporting agency at the address
29 or other point of contact and in the manner specified by the consumer
30 reporting agency.
31 b. Provides to the consumer reporting agency sufficient proof of
32 identification for both the protected consumer and the representative.
33 c. Provides to the consumer reporting agency sufficient proof of
34 authority to act on behalf of the protected consumer.
35 d. Pays to the consumer reporting agency a fee as provided in
36 subsection (d) of this section.

37 (b) Action Required. – If the placement of a protected consumer security freeze is
38 required under subsection (a) of this section, a consumer reporting agency shall do one of the
39 following, as applicable:

- 40 (1) If no consumer report exists. – If the consumer reporting agency does not
41 have a consumer report pertaining to the protected consumer, the consumer
42 reporting agency shall create a protected consumer's file and place a
43 restriction in the protected consumer's file that prohibits the release of the
44 protected consumer's file, any consumer report subsequently created for the
45 consumer, and any information contained in either document except as
46 provided in this section.
47 (2) If a consumer report exists. – If the consumer reporting agency has a
48 consumer report pertaining to the protected consumer, the consumer
49 reporting agency shall place a restriction on the report that prohibits the
50 release of the consumer report and any information contained in the report
51 except as provided in this section.

1 (c) Duration of Freeze. – A protected consumer security freeze shall remain in effect
2 until one of the following occurs, in which case the protected consumer security freeze shall be
3 removed within 30 days:

4 (1) The protected consumer or the protected consumer's representative requests
5 the consumer reporting agency to remove the protected consumer security
6 freeze by doing all of the following:

7 a. Submitting a request for the removal of the protected consumer
8 security freeze to the consumer reporting agency at the address or
9 other point of contact and in the manner specified by the consumer
10 reporting agency.

11 b. If the request is being made by the protected consumer, providing to
12 the consumer reporting agency (i) proof that the sufficient proof of
13 authority for the protected consumer's representative is no longer
14 valid and (ii) sufficient proof of identification for the protected
15 consumer.

16 c. If the request is being made by the representative of a protected
17 consumer, providing to the consumer reporting agency (i) sufficient
18 proof of identification of the protected consumer and the
19 representative and (ii) sufficient proof of authority to act on behalf of
20 the protected consumer.

21 d. Providing to the consumer reporting agency a fee as provided in
22 subsection (d) of this section.

23 (2) The consumer reporting agency determines that the protected consumer
24 security freeze was placed based on a material misrepresentation of fact by
25 the protected consumer or the protected consumer's representative.

26 (d) Fees. – A consumer reporting agency may charge a reasonable fee for each
27 placement or removal of a protected consumer security freeze in accordance with the following:

28 (1) Fee allowed in certain cases. – Except as provided in subdivision (2) of this
29 subsection, a consumer reporting agency may charge a fee to a consumer not
30 to exceed five dollars (\$5.00) for placement or removal of a protected
31 consumer security freeze.

32 (2) No fee allowed in certain cases. – A fee may not be charged for the
33 placement or removal of a protected consumer security freeze under this
34 section if any of the following conditions are satisfied:

35 a. The protected consumer's representative has submitted a copy of a
36 valid investigative or incident report or complaint with a law
37 enforcement agency about the unlawful use of the protected
38 consumer's identifying information by another person.

39 b. A request for placement or removal of a protected consumer security
40 freeze is for a protected consumer who is under the age of 16 at the
41 time of the request and the consumer reporting agency has a
42 consumer report pertaining to the protected consumer.

43 c. The protected consumer is over the age of 62.

44 (3) No other fees allowed. – No fee other than those authorized under this
45 subsection may be charged for placement or removal of a protected
46 consumer security freeze.

47 (e) Exceptions. – This section does not apply to the use of a consumer credit report by
48 any of the following:

49 (1) A person or the person's subsidiary, affiliate, agent, subcontractor, or
50 assignee with whom the consumer has, or prior to assignment had, an
51 account, contract, or debtor-creditor relationship for the purposes of

- 1 reviewing the active account or collecting the financial obligation owing for
2 the account, contract, or debt.
- 3 (2) Any person acting pursuant to a court order, warrant, or subpoena.
4 (3) A State or local agency, or its agents or assigns, that administers a program
5 for establishing and enforcing child support obligations.
6 (4) A State or local agency, or its agents or assigns, acting to investigate fraud,
7 including Medicaid fraud, or acting to investigate or collect delinquent taxes
8 or assessments, including interest and penalties, unpaid court orders, or to
9 fulfill any of its other statutory responsibilities.
10 (5) A federal, State, or local governmental entity, including a law enforcement
11 agency, court, or its agent or assigns.
12 (6) A person for the purposes of prescreening as defined by the Fair Credit
13 Reporting Act, 15 U.S.C. § 1681, et seq.
14 (7) Any person for the sole purpose of providing for a credit file monitoring
15 subscription service to which the protected consumer has subscribed or the
16 representative of the protected consumer has subscribed on behalf of the
17 protected consumer.
18 (8) A consumer reporting agency for the purpose of providing a protected
19 consumer or representative of a protected consumer with a copy of the
20 protected consumer's credit report upon the request of the protected
21 consumer or the protected consumer's representative.
22 (9) Any depository financial institution for checking, savings, and investment
23 accounts.
24 (10) Any property and casualty insurance company for use in setting or adjusting
25 a rate, adjusting a claim, or underwriting for property and casualty insurance
26 purposes.
27 (11) A person for the purpose of furnishing or using credit reports for
28 employment purposes pursuant to 15 U.S.C. § 1681b(b) or tenant screening
29 pursuant to 15 U.S.C. § 1681b(a)(3)(F).
30 (12) A person for the purpose of criminal background record information.
31 (f) The following persons are not required to place a security freeze on a credit
32 report pursuant to this section; provided, however, that any person that is not required to
33 place a security freeze on a credit report under the provisions of subdivision (3) of this
34 subsection shall be subject to any security freeze placed on a credit report by another consumer
35 reporting agency from which it obtains information:
- 36 (1) A check services or fraud prevention services company, which reports on
37 incidents of fraud or issues authorizations for the purpose of approving or
38 processing negotiable instruments, electronic fund transfers, or similar
39 methods of payment.
40 (2) A deposit account information service company, which issues reports
41 regarding account closures due to fraud, substantial overdrafts, ATM abuse,
42 or other similar negative information regarding a consumer to inquiring
43 banks or other financial institutions for use only in reviewing a consumer
44 request for a deposit account at the inquiring bank or financial institution.
45 (3) A consumer reporting agency that does all of the following:
46 a. Acts only to resell credit information by assembling and merging
47 information contained in a database of one or more credit reporting
48 agencies.
49 b. Does not maintain a permanent database of credit information from
50 which new credit reports are produced.

- 1 (4) A consumer reporting agency that maintains a database or file that consists
- 2 of information used for any of the following purposes but that is not used for
- 3 credit granting purposes:
- 4 a. Reporting of criminal record information.
- 5 b. Fraud prevention or detection.
- 6 c. Reporting personal loss history information.
- 7 d. Employment, tenant, or other individual background screening.
- 8 (g) Violation. – A violation of this section is a violation of G.S. 75-1.1."
- 9 **SECTION 4.** G.S. 130A-101 is amended by adding a new subsection to read:
- 10 "(h) When a birth occurs, the person responsible for preparing the birth certificate under
- 11 this section shall provide the mother, father, or legal guardian of the child with information
- 12 about how to request a protected consumer security freeze for the child under G.S. 75-63.1 and
- 13 the potential benefits of doing so."
- 14 **SECTION 5.** This act becomes effective January 1, 2016.