

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 629  
Committee Substitute Favorable 5/18/05

Short Title: Option to Freeze Credit Report.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ANY CONSUMER CREDIT REPORTING AGENCY TO,  
UPON THE WRITTEN REQUEST OF A CONSUMER, PLACE A SECURITY  
FREEZE THAT PROHIBITS THE AGENCY FROM PROVIDING A  
CONSUMER'S CREDIT REPORT TO A THIRD PARTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 75 of the General Statutes is amended by adding a  
new Article to read:

"Article 2A.

"Credit Report Protection Act.

**"§ 75-60. Title.**

This Article may be cited as the "Credit Report Protection Act".

**"§ 75-61. Definitions.**

The following definitions apply in this Article:

(1) Business. – A sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit. Business includes a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent or the subsidiary of any such financial institution. Business shall not include any government or governmental subdivision or agency.

(2) Consumer. – An individual.

(3) Consumer or credit reporting agency. – Any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

- 1           (4) Consumer report or credit report. – Any written, oral, or other  
2 communication of any information by a consumer reporting agency  
3 bearing on a consumer's creditworthiness, credit standing, credit  
4 capacity, character, general reputation, personal characteristics, or  
5 mode of living that is used or expected to be used or collected in whole  
6 or in part for the purpose of serving as a factor in establishing the  
7 consumer's eligibility for any one or more of the following:  
8           a. Credit to be used primarily for personal, family, or household  
9           purposes.  
10           b. Employment purposes.  
11           c. Any other purpose authorized under 15 U.S.C. § 1681b.  
12       (5) Credit card. – Defined in section 103 of the Truth in Lending Act (15  
13 U.S.C. § 160, et seq.).  
14       (6) Person. – Any individual, partnership, corporation, trust, estate,  
15 cooperative, association, government, or governmental subdivision or  
16 agency, or other entity.  
17       (7) Personal information. – An individual's first name or first initial and  
18 last name in combination with identifying information as defined in  
19 G.S. 14-113.20(b) or any identifying information, when not in  
20 connection with the individual's first name or first initial and last  
21 name, that if compromised would be sufficient to perform or attempt  
22 to perform identity theft against the person whose information was  
23 compromised.  
24       (8) Records. – Any material on which written, drawn, spoken, visual, or  
25 electromagnetic information is recorded or preserved, regardless of  
26 physical form or characteristics. Records do not include publicly  
27 available directories containing information an individual has  
28 voluntarily consented to have publicly disseminated or listed, such as  
29 name, address, or telephone number.  
30       (9) Security breach. – Unauthorized acquisition of records or data that  
31 compromises the security or confidentiality of personal information.  
32 Security breach does not include a good faith acquisition of personal  
33 information by an employee or agent of the business for a legitimate  
34 purpose, provided that the personal information is not used for a  
35 purpose unrelated to the business or subject to further unauthorized  
36 disclosure.  
37       (10) Security freeze. – Notice, at the request of the consumer and subject to  
38 certain exceptions under G.S. 75-63(p), that prohibits the consumer  
39 reporting agency from releasing all or any part of the consumer's credit  
40 report or any information derived from it without the express  
41 authorization of the consumer.

42 **§ 75-62. Security freeze.**

43       (a) If a consumer elects to place a security freeze on his or her credit report, a  
44 credit reporting agency shall not release the consumer's credit report or information to a

1 third party without prior express authorization from the consumer. This subsection does  
2 not prevent a consumer reporting agency from advising a third party that a security  
3 freeze is in effect with respect to the consumer's credit report.

4 (b) A consumer may elect to place a security freeze on his or her credit report by  
5 making a request directly to a consumer reporting agency by any of the following  
6 methods:

7 (1) By certified mail.

8 (2) By telephone by providing certain personal identification.

9 (3) Through a secure electronic mail connection if such connection is  
10 made available by the agency.

11 (c) A consumer reporting agency shall place a security freeze on a consumer's  
12 credit report no later than five business days after receiving a written or telephone  
13 request from the consumer or three business days after receiving a secure electronic  
14 mail request.

15 (d) The consumer reporting agency shall send a written confirmation of the  
16 security freeze to the consumer within five business days of placing the freeze and at the  
17 same time shall provide the consumer with a unique personal identification number or  
18 password to be used by the consumer when providing authorization for the release of his  
19 or her credit for a specific party or period of time.

20 (e) If the consumer wishes to allow his or her credit report to be accessed for a  
21 specific party or period of time while a freeze is in place, he or she shall contact the  
22 consumer reporting agency via telephone, certified mail, or secure electronic mail,  
23 request that the freeze be temporarily lifted, and provide all of the following:

24 (1) Proper identification.

25 (2) The unique personal identification number or password provided by  
26 the consumer reporting agency pursuant to subsection (d) of this  
27 section.

28 (3) The proper information regarding the third party who is to receive the  
29 credit report or the time period for which the report shall be available  
30 to users of the credit report.

31 (f) A consumer reporting agency that receives a request from a consumer to  
32 temporarily lift a freeze on a credit report pursuant to subsection (e) of this section shall  
33 comply with the request no later than three business days after receiving the request.

34 (g) A consumer reporting agency may develop procedures involving the use of  
35 telephone, fax, or, upon the consent of the consumer in the manner required by the  
36 Electronic Signatures in Global and National Commerce Act (e-Sign) for legally  
37 required notices, by the Internet, e-mail, or other electronic media to receive and process  
38 a request from a consumer to temporarily lift a freeze on a credit report pursuant to  
39 subsection (e) of this section in an expedited manner.

40 (h) A consumer reporting agency shall remove or temporarily lift a freeze placed  
41 on a consumer's credit report only in the following cases:

42 (1) Upon the consumer's request, pursuant to subsection (e) of this section.

43 (2) If the consumer's credit report was frozen due to a material  
44 misrepresentation of fact by the consumer. If a consumer reporting

1           agency intends to remove a freeze upon a consumer's credit report  
2           pursuant to this subdivision, the consumer reporting agency shall  
3           notify the consumer in writing five business days prior to removing the  
4           freeze on the consumer's credit report.

5           (i) If a third party requests access to a consumer credit report on which a security  
6           freeze is in effect, and this request is in connection with an application for credit or any  
7           other use, and the consumer does not allow his or her credit report to be accessed for  
8           that specific party or period of time, the third party may treat the application as  
9           incomplete.

10          (j) If a third party requests access to a consumer credit report on which a security  
11          freeze is in effect for the purpose of receiving, extending, or otherwise utilizing the  
12          credit therein, and not for the sole purpose of account review, the consumer credit  
13          reporting agency shall notify the consumer that an attempt has been made to access the  
14          credit report and by whom.

15          (k) A security freeze shall remain in place until the consumer requests that the  
16          security freeze be removed. A consumer reporting agency shall remove a security freeze  
17          within three business days of receiving a request for removal from the consumer who  
18          provides both of the following:

19                (1) Proper identification.

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

23          (l) A consumer reporting agency shall require proper identification of the person  
24          making a request to place or remove a security freeze.

25          (m) A consumer reporting agency shall not suggest or otherwise state or imply to  
26          a third party that the consumer's security freeze reflects a negative credit score, history,  
27          report, or rating.

28          (n) A consumer shall not be charged for any security freeze services, including,  
29          but not limited to, the placement or lifting of a security freeze; however, a consumer  
30          may be charged no more than five dollars (\$5.00) only in the following discrete  
31          circumstances:

32                (1) If the consumer fails to retain the original personal identification  
33                number provided by the agency, the consumer shall not be charged for  
34                a one-time reissue of the personal identification number and no more  
35                than five dollars (\$5.00) for subsequent instances of loss of the  
36                personal identification number.

37                (2) The consumer may be charged no more than five dollars (\$5.00) for  
38                the third and each subsequent time within a calendar year the  
39                consumer requests a security freeze on his or her credit report be  
40                temporarily lifted pursuant to subsection (e) of this section.

41                (3) For consumers that remove a security freeze pursuant to subsection (k)  
42                of this section, the consumer may be charged no more than five dollars  
43                (\$5.00) for the third and each subsequent time within a calendar year

1           the consumer requests a security freeze be placed on his or her credit  
2           report pursuant to subsection (b) of this section.

3           (o) At anytime that a consumer is required to receive a summary of rights  
4           required under section 609 of the federal Fair Credit Reporting Act, the following notice  
5           shall be included:

6           **"North Carolina Consumers Have the Right to Obtain a Security Freeze on a**  
7           **Credit Report.**

8           You may obtain a security freeze on your credit report at no charge to protect your  
9           privacy and ensure that credit is not granted in your name without your knowledge. You  
10           have a right to place a security freeze on your credit report pursuant to North Carolina  
11           law. The security freeze will prohibit a consumer reporting agency from releasing any  
12           information in your credit report without your express authorization or approval.

13           The security freeze is designed to prevent credit, loans, and services from being  
14           approved in your name without your consent. When you place a security freeze on your  
15           credit report, within five business days you will be provided a personal identification  
16           number or password. You may use this number or password to remove the freeze on  
17           your credit report or to temporarily authorize the release of your credit report to a  
18           specific party or parties or for a period of time after the freeze is in place. To provide  
19           that authorization, you must contact the consumer reporting agency and provide all of  
20           the following:

- 21           (1) The unique personal identification number or password provided by  
22           the consumer reporting agency.  
23           (2) Proper identification to verify your identity.  
24           (3) Proper information regarding the third party or parties who are to  
25           receive the credit report or the period of time for which the report shall  
26           be available to users of the credit report.

27           A consumer reporting agency that receives a request from a consumer to lift  
28           temporarily a freeze on a credit report shall comply with the request no later than three  
29           business days after receiving the request. A security freeze does not apply to  
30           circumstances where you have an existing account relationship and a copy of your  
31           report is requested by your existing creditor or its agents or affiliates for certain types of  
32           account review, collection, fraud control, or similar activities.

33           If you are actively seeking credit, you should understand that the procedures  
34           involved in lifting a security freeze may slow your own applications for credit. You  
35           should plan ahead and lift a freeze – either for a period of time if you are shopping  
36           around or specifically for a certain creditor – a few days before actually applying for  
37           new credit.

38           If you lift your freeze more than two times in a calendar year, you may be charged  
39           no more than five dollars (\$5.00) for each subsequent time you wish to impose a  
40           security freeze on your credit report. You have a right to bring a civil action against  
41           someone who violates your rights under the credit reporting laws. The action may be  
42           brought against a consumer reporting agency or a user of your credit report."

43           (p) The provisions of this section do not apply to the use of a consumer credit  
44           report by any of the following:

- 1           (1) A person, or the person's subsidiary, affiliate, agent, or assignee with  
2           which the consumer has or, prior to assignment, had an account,  
3           contract, or debtor-creditor relationship for the purposes of reviewing  
4           the account or collecting the financial obligation owing for the  
5           account, contract, or debt.
- 6           (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a  
7           person to whom access has been granted under subsection (e) of this  
8           section for purposes of facilitating the extension of credit or other  
9           permissible use.
- 10          (3) Any person acting pursuant to a court order, warrant, or subpoena.
- 11          (4) A State or local agency that administers a program for establishing and  
12          enforcing child support obligations.
- 13          (5) The State or its agents or assigns acting to investigate fraud or acting  
14          to investigate or collect delinquent taxes or unpaid court orders or to  
15          fulfill any of its other statutory responsibilities.
- 16          (6) A person for the purposes of prescreening, as defined by the federal  
17          Fair Credit Reporting Act.
- 18          (7) Any person or entity administering a credit file monitoring  
19          subscription service to which the consumer has subscribed.
- 20          (8) Any person or entity for the purpose of providing a consumer with a  
21          copy of his or her credit report upon the consumer's request.
- 22          (q) If a consumer reporting agency erroneously, whether by accident or design,  
23          violates a security freeze by releasing credit information that has been placed under a  
24          security freeze or violates any other provision in this section, the affected consumer is  
25          entitled to:
- 26               (1) Notification within five business days of the release of the information,  
27               including specificity as to the information released and the third-party  
28               recipient of the information.
- 29               (2) File a civil action pursuant to G.S. 75-16. In addition to the remedies  
30               therein, a consumer may recover statutory damages of one thousand  
31               dollars (\$1,000) per violation and seek injunctive relief to prevent or  
32               restrain further violations."

33          **SECTION 2.** This act becomes effective October 1, 2005.