**South Carolina General Assembly**

120th Session, 2013-2014

**A145, R153, S148**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Shealy, Bryant, Gregory and Alexander

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Companion/Similar bill(s): 3628

Introduced in the Senate on January 8, 2013

Introduced in the House on April 30, 2013

Last Amended on March 5, 2014

Passed by the General Assembly on April 1, 2014

Governor's Action: April 7, 2014, Signed

Summary: Identity theft protection

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/18/2012 Senate Prefiled

 12/18/2012 Senate Referred to Committee on **Banking and Insurance**

 1/8/2013 Senate Introduced and read first time ([Senate Journal‑page 100](file:///H%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 1/8/2013 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 100](file:///H%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 4/16/2013 Senate Committee report: Favorable with amendment **Banking and Insurance** ([Senate Journal‑page 18](file:///H%3A%5CSJ%20Archive%5C2013%5C04-16-13.docx))

 4/17/2013 Senate Committee Amendment Adopted ([Senate Journal‑page 24](file:///H%3A%5CSJ%20Archive%5C2013%5C04-17-13.docx))

 4/25/2013 Senate Amended ([Senate Journal‑page 29](file:///H%3A%5CSJ%20Archive%5C2013%5C04-25-13.docx))

 4/25/2013 Senate Read second time ([Senate Journal‑page 29](file:///H%3A%5CSJ%20Archive%5C2013%5C04-25-13.docx))

 4/25/2013 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 29](file:///H%3A%5CSJ%20Archive%5C2013%5C04-25-13.docx))

 4/26/2013 Scrivener's error corrected

 4/30/2013 Senate Read third time and sent to House ([Senate Journal‑page 23](file:///H%3A%5CSJ%20Archive%5C2013%5C04-30-13.docx))

 4/30/2013 House Introduced and read first time ([House Journal‑page 188](file:///H%3A%5CHJ%20Archive%5C2013%5C04-30-13.docx))

 4/30/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 188](file:///H%3A%5CHJ%20Archive%5C2013%5C04-30-13.docx))

 5/23/2013 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 2](file:///H%3A%5CHJ%20Archive%5C2013%5C05-23-13.docx))

 5/29/2013 House Debate adjourned until Thur., 5‑30‑13 ([House Journal‑page 13](file:///H%3A%5CHJ%20Archive%5C2013%5C05-29-13.docx))

 5/30/2013 House Requests for debate‑Rep(s). Cobb‑Hunter, King, Neal, Jefferson, Sandifer, Ridgeway, Mitchell, Knight, Williams, Clyburn, Hosey, Whipper, RL Brown, Gilliard, Weeks, Robinson‑Simpson, Dilliard, Whitmire, KR Crawford ([House Journal‑page 37](file:///H%3A%5CHJ%20Archive%5C2013%5C05-30-13.docx))

 1/15/2014 House Debate adjourned until Sat., 2‑1‑14 ([House Journal‑page 50](file:///H%3A%5CHJ%20Archive%5C2014%5C01-15-14.docx))

 2/6/2014 House Debate adjourned until Wed., 2‑19‑14 ([House Journal‑page 32](file:///H%3A%5CHJ%20Archive%5C2014%5C02-06-14.docx))

 2/19/2014 House Debate adjourned until Thur., 2‑27‑14 ([House Journal‑page 22](file:///H%3A%5CHJ%20Archive%5C2014%5C02-19-14.docx))

 3/5/2014 House Amended ([House Journal‑page 54](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Read second time ([House Journal‑page 54](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Roll call Yeas‑108 Nays‑0 ([House Journal‑page 58](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/19/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 20](file:///H%3A%5CHJ%20Archive%5C2014%5C03-19-14.docx))

 4/1/2014 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 44](file:///H%3A%5CSJ%20Archive%5C2014%5C04-01-14.docx))

 4/1/2014 Senate Roll call Ayes‑33 Nays‑0 ([Senate Journal‑page 44](file:///H%3A%5CSJ%20Archive%5C2014%5C04-01-14.docx))

 4/3/2014 Ratified R 153

 4/7/2014 Signed By Governor

 4/9/2014 Effective date 01/01/15

 4/14/2014 Act No. 145

**VERSIONS OF THIS BILL**

[12/18/2012](file:///p%3A%5Cpprever%5C2013-14%5C148_20121218.docx)

[4/16/2013](file:///p%3A%5Cpprever%5C2013-14%5C148_20130416.docx)

[4/17/2013](file:///p%3A%5Cpprever%5C2013-14%5C148_20130417.docx)

[4/25/2013](file:///p%3A%5Cpprever%5C2013-14%5C148_20130425.docx)

[4/26/2013](file:///p%3A%5Cpprever%5C2013-14%5C148_20130426.docx)

[5/23/2013](file:///p%3A%5Cpprever%5C2013-14%5C148_20130523.docx)

[3/5/2014](file:///p%3A%5Cpprever%5C2013-14%5C148_20140305.docx)

(A145, R153, S148)

**AN ACT** **TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 37‑20‑161 SO AS TO PROVIDE CIRCUMSTANCES IN WHICH CONSUMER REPORTING AGENCIES SHALL PLACE A SECURITY FREEZE ON THE CONSUMER REPORT OF A PROTECTED CONSUMER, TO PROVIDE FOR THE DURATION OF THE FREEZE AND CIRCUMSTANCES FOR ITS REMOVAL, TO PROVIDE CONSUMER REPORTING AGENCIES SHALL NOT RELEASE CERTAIN INFORMATION FROM FROZEN ACCOUNTS, TO PROHIBIT CONSUMER REPORTING AGENCIES FROM CHARGING RELATED FEES, AND TO DEFINE NECESSARY TERMS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Preemptive security freezes on protected consumers’ consumer reports**

SECTION 1. Chapter 20, Title 37 of the 1976 Code is amended by adding:

 “Section 37‑20‑161. (A) For purposes of this section:

 (1) ‘Protected consumer’ means an individual who is:

 (a) under the age of sixteen years at the time a request for the placement of a security freeze is made; or

 (b) an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

 (2) ‘Record’ means a compilation of information that:

 (a) identifies a protected consumer;

 (b) is created by a consumer reporting agency solely for the purpose of complying with this section; and

 (c) may not be created or used to consider the protected consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose listed in Section 37‑20‑110(3).

 (3) ‘Representative’ means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

 (4) ‘Security freeze’ means:

 (a) if a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

 (i) is placed on the protected consumer’s record in accordance with this section; and

 (ii) prohibits the consumer reporting agency from releasing the protected consumer’s record except as provided in this section; or

 (b) if a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

 (i) is placed on the protected consumer’s consumer report in accordance with this section; and

 (ii) prohibits the consumer reporting agency from releasing the protected consumer’s consumer report or any information derived from the protected consumer’s consumer report except as provided in this section.

 (5) ‘Sufficient proof of authority’ means documentation that shows a representative has authority to act on behalf of a protected consumer and includes:

 (a) an order issued by a court of law;

 (b) a lawfully executed and valid power of attorney; or

 (c) a written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

 (6) ‘Sufficient proof of identification’ means information or documentation that identifies a protected consumer or a representative of a protected consumer and includes:

 (a) a social security number or a copy of a social security card issued by the social security administration;

 (b) a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate; or

 (c) a copy of a driver’s license, an identification card issued by the motor vehicle administration, or any other government-issued identification.

 (B) This section does not apply to the use of a protected consumer’s consumer report or record by a person specified in Section 37‑20‑160(K) or (L).

 (C)(1) A consumer reporting agency shall place a security freeze for a protected consumer if:

 (a) the consumer reporting agency receives a request from the protected consumer’s representative for the placement of the security freeze under this section; and

 (b) the protected consumer’s representative:

 (i) submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

 (ii) provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative; and

 (iii) provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer;

 (2) if a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a request under item (1), the consumer reporting agency shall create a record for the protected consumer.

 (D) Within thirty days after receiving a request that meets the requirements of item (1), a consumer reporting agency shall place a security freeze for the protected consumer.

 (E) Unless a security freeze for a protected consumer is removed in accordance with subsection (G) or (I), a consumer reporting agency may not release the protected consumer’s consumer report, any information derived from the protected consumer’s consumer report, or any record created for the protected consumer.

 (F) A security freeze for a protected consumer placed under subsection (D) shall remain in effect until:

 (1) the protected consumer or the protected consumer’s representative requests the consumer reporting agency to remove the security freeze in accordance with subsection (G) of this section; or

 (2) the security freeze is removed in accordance with subsection (I).

 (G) If a protected consumer or a protected consumer’s representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer’s representative shall:

 (1) submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency; and

 (2) provide to the consumer reporting agency:

 (a) in the case of a request by the protected consumer:

 (i) sufficient proof of authority for the protected consumer’s representative to act on behalf of the protected consumer is no longer valid; and

 (ii) sufficient proof of identification of the protected consumer; or

 (b) in the case of a request by the representative of a protected consumer:

 (i) sufficient proof of identification of the protected consumer and the representative; and

 (ii) sufficient proof of authority to act on behalf of the protected consumer.

 (H) Within fifteen days after receiving a request that meets the requirements of subsection (G), the consumer reporting agency shall remove the security freeze for the protected consumer.

 (I) A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer’s representative.

 (J) A consumer reporting agency must not charge a fee to place a security freeze for a protected consumer. If the protected consumer does not already have a consumer credit file, and the consumer reporting agency must create one in order to place the security freeze, the consumer reporting agency must not charge a fee to create a consumer credit file in order to place the security freeze.”

**Time effective**

SECTION 2. This act takes effect January 1, 2015.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

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