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Final Analysis

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Effective date: Security freeze provisions effective March 28, 2017; government records provisions effective September 28, 2016

ACT SUMMARY

Security freezes

- Permits a representative to place a security freeze on the credit record or credit report of a consumer who is either under age 16 or is age 16 or over and has an appointed guardian.
- Establishes protocols that credit reporting agencies must follow regarding a security freeze.
- Specifies the written notification that credit reporting agencies must provide regarding security freezes.
- Applies specified laws pertaining to standard security freezes to security freezes under the act.

* This version updates the effective date.

- Establishes an exemption to security freeze requirements for certain credit reporting agency databases and files that are not a credit report or a credit record.

Personal information and government records

- Expands the types of personal information that an individual may request a public office to redact from any record it makes available to the general public on the Internet.
- Exempts personal information, as expanded by the act, from Ohio Public Records Law disclosure requirements.

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CONTENT AND OPERATION

Summary

The act enables a protected consumer's representative to place a security freeze on the credit report or record of the protected consumer and specifies protocols for consumer credit reporting agencies (CRAs) to follow for the security freezes. CRAs are the entities that monitor credit and provide credit scores and reports. A protected consumer is either:

- An individual under age 16; or
- An individual age 16 or older for whom a guardian has been appointed.

A security freeze is a prohibition against releasing all or part of the credit information related to the individual. Its purpose is to protect an individual from identity theft.



The act also expands the types of personal information that an individual may request a public office to redact from any record the office makes available to the general public on the Internet. In addition, it exempts personal information, as expanded by the act, from Ohio Public Records Law disclosure requirements.

CRA protocols

The act enables, beginning March 28, 2017, the representative of a protected consumer to place a security freeze on the protected consumer's credit report. To do so, the representative must make a security freeze request to a CRA in writing, by certified mail (or other comparable method), or by any electronic method approved by the CRA. The representative must present proof of identity for both the representative and the protected consumer and proof of authority to act on the protected consumer's behalf.¹ After receiving the request and all required documents, the CRA must place a security freeze on a protected consumer's credit report within 30 days. The CRA must then provide a written confirmation of the security freeze to the address associated with the protected consumer within five business days after the freeze goes into effect.²

If a CRA does not have a credit *report* for the protected consumer (i.e., if the protected consumer does not have any credit history), the CRA must create a credit *record* for the protected consumer and place a security freeze on the record. The act prohibits the use of such a credit record for any purpose other than carrying out the security freeze.³

Removing a security freeze

A security freeze is to be removed only in the following circumstances:

- It was made due to a material misrepresentation;
- At the request of the protected consumer's representative;
- At the request of the protected consumer when the consumer reaches age 16.

When a CRA plans to remove a security freeze due to material misrepresentation, it must notify the protected consumer's representative in writing at least five business days prior to removing the security freeze.

¹ R.C. 1349.521(A) and Section 3, with conforming changes in R.C. 1349.52.

² R.C. 1349.521(B).

³ R.C. 1349.521(C).



If the security freeze is removed at the request of the protected consumer's representative, the representative must provide sufficient proof of identity for both the protected consumer and the representative. The representative must also present sufficient proof of authority to act on the protected consumer's behalf.

A CRA must develop a procedure by which a minor protected consumer, upon reaching age 16, may remove a security freeze. This procedure must require the protected consumer to produce proof of identity and age.

A security freeze must be removed within 30 days of a CRA receiving a removal request and all required information.⁴

Written notification

CRA's must provide written notification to a protected consumer's representative when required by federal law or when providing the written confirmation required by the act. The act specifies the form of the written notification, which describes the main aspects of the Protected Consumer Security Freeze Law and which may be found below under "**Form of written notification.**"⁵

Release of credit report

With regard to adult protected consumers, the act authorizes a CRA to release a credit report that has been placed under a security freeze to specified types of persons or businesses associated with an account or contract the protected consumer has or had, or to whom the protected consumer issued a negotiable instrument (such as a check). The release must be for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.⁶

With regard to all protected consumers, the act authorizes a CRA to release a credit report that has been placed under a security freeze to the following entities:

- Any state or local law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;
- Any federal, state, or local governmental entity acting within its authority;
- A state or local child support enforcement agency;

⁴ R.C. 1349.521(D) and (E).

⁵ R.C. 1349.521(F).

⁶ R.C. 1349.521(G)(1).



- A person seeking to use the information contained in the consumer's credit report for prescreening pursuant to the federal "Fair Credit Reporting Act";
- Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed;
- Any person or entity providing the protected consumer's representative with a copy of the protected consumer's credit report at the representative's request;
- Any person or entity for use in setting or adjusting a rate, adjusting a claim, or underwriting for insurance purposes;
- Any person or entity acting to investigate fraud, or acting to investigate or collect delinquent taxes or unpaid court orders, provided those responsibilities are consistent with the federal "Fair Credit Reporting Act";
- A protected individual who has made a request to remove the security freeze upon reaching age 16.⁷

Fees

Authorized fees

With certain exceptions, a CRA is authorized to charge a fee of no more than \$5 for placing or removing a protected consumer security freeze.

When fees cannot be charged

The act prohibits a CRA from charging security freeze related fees in the following circumstances:

- For placing a security freeze, if the protected consumer has already been the subject of identity theft. The protected consumer's representative must produce the related police report.
- For placing or removing a security freeze, if the protected consumer is in foster care or is a minor protected consumer for whom a credit report already exists.

⁷ R.C. 1349.521(G)(2).



- For removing the security freeze of a minor protected consumer who has reached age 16 and wishes to have a security freeze removed.⁸

Information alteration

If a security freeze is in place, a CRA may not change any of the following official information in a credit report without sending a written confirmation of the change to the protected consumer's representative within 30 days of its being posted to the protected consumer's file:

- Name;
- Date of birth;
- Social Security number;
- Address.

Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation must be sent to both the new and former addresses.⁹

Exemptions

The act adds to the list of entities exempt from the Security Freeze Law to include a CRA database or a file that is not a credit report or credit record, if it consists entirely of consumer information concerning, and used solely for, at least one of the following:

- Criminal record information;
- Personal loss history information;
- Fraud prevention or detection;
- Employment screening;
- Tenant screening.¹⁰

⁸ R.C. 1349.521(H).

⁹ R.C. 1349.521(I).

¹⁰ R.C. 1349.52(L)(3).



Miscellaneous changes to security freeze laws

The act stipulates that certain provisions of existing Security Freeze Law and a provision under the act pertaining to standard security freezes also apply to protected consumer security freezes. These provisions of law touch on the following topics:

- The exemption of entities that resell credit information from the Security Freeze Law;
- The specification that check services, fraud prevention services, demand deposit account information companies, and CRAs in relation to databases or files as described above under "**Exemptions**" are not required to place security freezes;
- The authority of the Attorney General in relation to the oversight of security freezes.¹¹

Form of written notification

The written notification described above under "**Written notification**" is to read as follows:

The parent or guardian of a minor under the age of sixteen or the guardian or conservator of an incapacitated or protected adult, collectively referred to as a "protected consumer" may seek a security freeze to protect the identity of a protected consumer and ensure that credit is not inappropriately granted in the protected consumer's name. In order to request a security freeze for a protected consumer, the protected consumer's parent, guardian, or conservator must present sufficient proof of authority to act on the protected consumer's behalf. The parent, guardian, or conservator must also present sufficient proof of identity for the parent, guardian, or conservator, in addition to proof of identity for the protected consumer.

In order for the representative of a protected consumer to request the removal of a security freeze of a protected consumer, the representative must contact the consumer credit reporting agency and provide all of the following:

- (a) Sufficient proof of identity for both the protected consumer and the protected consumer's representative;
- (b) Sufficient proof of authority to act on the behalf of the protected consumer.

¹¹ R.C. 1349.52(K) through (P) and 1349.521(J).

A minor protected consumer, upon reaching sixteen years of age, may also request that the security freeze be removed. A minor protected consumer making such a request must provide proof of identity and age.

A consumer credit reporting agency that receives a proper request by certified mail or other comparable service, secure electronic method selected by the consumer credit reporting agency, telephone, or by any other means authorized by the consumer credit reporting agency to remove a security freeze on a credit report shall comply with the request not later than 30 days after receiving the request.

A security freeze does not apply to circumstances in which a protected consumer already has an existing account relationship and a copy of the protected consumer's credit report is requested by the protected consumer's existing creditor or its agents or affiliates for certain types of account review, collection, fraud control, or similar activities.

If a protected consumer is actively seeking credit, it should be understood that the procedures involved in removing a security freeze may slow any applications for credit. Plan ahead and remove a freeze a month before actually applying for new credit.¹²

Personal information and government records

The act expands the types of personal information that an individual may request a public office to redact from any record the office makes available to the general public on the Internet. Under the act, the individual may request the public office to additionally redact the individual's:

- State tax identification number;
- Debit card number;
- Demand deposit account number;
- Money market account number;
- Mutual fund account number;
- Any other financial or medical account numbers.

¹² R.C. 1349.521(F).



Under continuing law, an individual can request redaction of the following personal information: the individual's Social Security number; federal tax identification number; driver's license number or state identification number; or checking account, savings account, or credit card number.

Within five business days of receiving such a request, the public office must (1) redact the individual's personal information from any record made available to the general public on the Internet or (2) explain to the individual why redaction is not practicable.¹³

The act also exempts personal information, as expanded by the act, from the Ohio Public Records Law's disclosure requirements. The Ohio Public Records Law generally requires every public office, when requested, to promptly prepare public records and make them available for inspection at all reasonable times during regular business hours. Upon request and within a reasonable period of time, a public office or person responsible for public records generally must make copies available at cost. Public records must be maintained in such a manner that they can be made available for inspection and copying.¹⁴

Definitions

The act creates the following definitions for the Security Freeze Law:

Protected consumer means an individual who, at the time a request for a security freeze is made, either:

- Is under age 16; or
- Is a person for whom a guardian of the estate or conservator has been appointed.

Adult protected consumer means a protected consumer who is age 16 or older.

Credit record means a compilation of information that both:

- Identifies a protected consumer; and
- Is created by a CRA for the sole purpose of complying with the Protected Consumer Security Freeze Law.

¹³ R.C. 149.45(B) and (C).

¹⁴ R.C. 149.43(A)(1)(dd).



Minor protected consumer means an individual who is under age 16.

Representative means any person who provides sufficient proof of authority to a CRA to act on a protected consumer's behalf. "Representative" includes a parent, guardian, or conservator.

Sufficient proof of authority means documentation that shows a representative has authority to act on a protected consumer's behalf. It includes any of the following:

- An order issued by a court of competent jurisdiction;
- A lawfully executed and valid power of attorney;
- A birth certificate, naming the representative as a parent of the protected consumer, in the case of a minor protected consumer;
- A written, notarized statement signed by the representative that expressly describes the authority of the representative to act on behalf of the protected consumer.

Sufficient proof of identity means information or documentation that identifies a protected consumer or a representative of a protected consumer. It includes any of the following:

- A Social Security number or a copy of a Social Security card;
- A certified or official copy of a birth certificate;
- A copy of a driver's license, a state identification card, or other government-issued identification;
- A copy of a bill, including a telephone or utility bill, that shows a name and home address.

The act also expands the definition of **credit report** to include a credit record created under the act and makes other changes to definitions to account for protected consumers.¹⁵

¹⁵ R.C. 1349.52(A).

HISTORY

ACTION	DATE
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