

Senate Bill 376

By: Senators Shafer of the 48th, Kirk of the 13th, Albers of the 56th, Thompson of the 14th,  
Heath of the 31st and others

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
2 relating to identity theft, so as to prohibit consumer credit reporting agencies from charging  
3 a fee for placing or removing a security freeze on a consumer's account; to amend Chapter  
4 3 of Title 10 of the Official Code of Georgia Annotated, relating to notes and other evidences  
5 of debt, so as to authorize a letter of credit from a bank operating under the authority of any  
6 territory of the United States; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Article 34 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to  
10 identity theft, is amended by revising Code Section 10-1-914, relating to consumer requested  
11 security freeze on credit report, timing, notifications, temporary lifting of freeze, application,  
12 and fees, as follows:

13 "10-1-914.

14 (a) A consumer may place a security freeze on the consumer's credit report by making a  
15 request in writing by certified mail to a consumer credit reporting agency. No later than  
16 August 1, 2008, a consumer credit reporting agency shall make available to consumers an  
17 Internet based method of requesting a security freeze and a toll-free telephone number for  
18 consumers to use to place a security freeze, temporarily lift a security freeze, or completely  
19 remove a security freeze. A security freeze shall prohibit, subject to exceptions in  
20 subsection (m) of this Code section, the consumer credit reporting agency from releasing  
21 the consumer's credit report or credit score without the prior express authorization of the  
22 consumer as provided in subsection (d) or (e) of this Code section. Nothing in this  
23 subsection prevents a consumer credit reporting agency from advising a third party that a  
24 security freeze is in effect with respect to the consumer's credit report.

25 (b) A consumer credit reporting agency shall place a security freeze on a consumer's credit  
26 report no later than three business days after receiving the consumer's written request sent  
27 by certified mail.

28 (c) The consumer credit reporting agency shall send a written confirmation of the security  
29 freeze to the consumer within ten business days of placing the security freeze and at the  
30 same time shall provide the consumer with a unique personal identification number or  
31 password, other than the consumer's social security number, to be used by the consumer  
32 when providing authorization for the release of the consumer's credit report for a specific  
33 period of time.

34 (d) If the consumer wishes to allow the consumer's credit report to be accessed for a  
35 specific period of time while a security freeze is in place, the consumer shall contact the  
36 consumer credit reporting agency through the contact method established by the consumer  
37 credit reporting agency, request that the security freeze be temporarily lifted, and provide  
38 all of the following:

39 (1) Proper identification;

40 (2) The unique personal identification number or password provided by the consumer  
41 credit reporting agency pursuant to subsection (c) of this Code section;

42 (3) The proper information regarding the time period for which the report shall be  
43 available to users of the consumer credit report; and

44 (4) The proper payment as may be required by the consumer credit reporting agency.

45 (e) A consumer credit reporting agency shall develop procedures involving the use of  
46 telephone, facsimile, the Internet, or other electronic media to receive and process a request  
47 from a consumer to temporarily lift a security freeze on a consumer credit report pursuant  
48 to subsection (d) of this Code section.

49 (f) A consumer credit reporting agency that receives a request from a consumer to  
50 temporarily lift a security freeze on a consumer credit report pursuant to subsection (d) or  
51 (e) of this Code section shall comply with the request:

52 (1) No later than three business days after receiving a written request; or

53 (2) Within 15 minutes after the request and payment are received by telephone or  
54 electronically by the contact method chosen by the consumer credit reporting agency  
55 during normal business hours and the request includes the consumer's proper  
56 identification, correct personal identification number or password, and the proper  
57 payment as may be required by the consumer credit reporting agency.

58 (g) A consumer credit reporting agency need not remove a security freeze within 15  
59 minutes, as specified in paragraph (2) of subsection (f) of this Code section, if:

60 (1) The consumer fails to satisfy the requirements of subsection (d) of this Code section;

61 or

- 62 (2) The consumer credit reporting agency's ability to remove the security freeze within  
63 15 minutes is prevented by:
- 64 (A) An act of God, including fire, earthquakes, hurricanes, storms, or similar natural  
65 disaster or phenomenon;
- 66 (B) Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot,  
67 vandalism, labor strikes or disputes disrupting operations, or similar occurrence;
- 68 (C) Operational interruption, including electrical failure, unanticipated delay in  
69 equipment or replacement part delivery, computer hardware or software failures  
70 inhibiting response time, or similar disruption;
- 71 (D) Governmental action, including emergency orders or regulations, judicial or law  
72 enforcement action, or similar directives;
- 73 (E) Regularly scheduled maintenance or updates, during other than normal business  
74 hours, to the consumer credit reporting agency's systems;
- 75 (F) Commercially reasonable maintenance of, or repair to, the consumer credit  
76 reporting agency's systems that is unexpected or unscheduled; or
- 77 (G) Receipt of a removal request outside of normal business hours.
- 78 (h) A consumer credit reporting agency shall only remove or temporarily lift a security  
79 freeze placed on a consumer's credit report:
- 80 (1) Upon the consumer's request, in compliance with the requirements of this Code  
81 section; or
- 82 (2) If the consumer's credit report was frozen due to a material misrepresentation of fact  
83 by the consumer. If a consumer credit reporting agency intends to remove a security  
84 freeze upon a consumer's credit report pursuant to this paragraph, the consumer credit  
85 reporting agency shall notify the consumer in writing prior to removing the security  
86 freeze on the consumer's credit report.
- 87 (i) If a third party requests access to a consumer credit report on which a security freeze  
88 is in effect and this request is in connection with an application for credit or any other use  
89 related to the extension of credit and the consumer does not allow the consumer's credit  
90 report to be accessed for that specific period of time, the third party may treat the  
91 application as incomplete.
- 92 (j) If a consumer requests a security freeze pursuant to this Code section, the consumer  
93 credit reporting agency shall disclose to the consumer the process of placing and  
94 temporarily lifting a security freeze and the process for allowing access to information from  
95 the consumer's credit report for a specific period of time while the security freeze is in  
96 place.
- 97 (k) A security freeze shall remain in place until the consumer requests that the security  
98 freeze be removed. A consumer credit reporting agency shall remove a security freeze

99 within three business days of receiving a request for removal from the consumer. The  
 100 consumer shall provide all of the following:

- 101 (1) Proper identification; and  
 102 (2) The unique personal identification number or password provided by the consumer  
 103 credit reporting agency pursuant to subsection (c) of this Code section; ~~and~~  
 104 ~~(3) The proper fee as may be required by the consumer credit reporting agency.~~

105 (l) A consumer credit reporting agency shall require proper identification of the person  
 106 making a request to place, temporarily lift, or remove a security freeze.

107 (m) By way of example only, and not intending to be exclusive, the provisions of this  
 108 Code section shall not apply to the use of a consumer credit report by any of the following:

- 109 (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or assignee with  
 110 whom the consumer has, or prior to assignment had, an account, contract, or  
 111 debtor-creditor relationship for the purposes of reviewing the active account or collecting  
 112 the financial obligation owing for the account, contract, or debt;  
 113 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom  
 114 access has been granted under subsection (d) of this Code section for purposes of  
 115 facilitating the extension of credit or other permissible use;  
 116 (3) Any person acting pursuant to a court order, warrant, or subpoena;  
 117 (4) A state or local agency, or its agents or assigns, which administers a program for  
 118 establishing and enforcing child support obligations;  
 119 (5) A state or local agency, or its agents or assigns, acting to investigate fraud, including  
 120 Medicaid fraud; acting to investigate or collect delinquent taxes or assessments, including  
 121 interest, penalties, and unpaid court orders; or acting to fulfill any of its other statutory  
 122 responsibilities;  
 123 (6) A federal, state, or local governmental entity, including a law enforcement agency,  
 124 court, or its agents or assigns;  
 125 (7) Any person for the use of a credit report for purposes permitted under 15 U.S.C.  
 126 Section 1681b(c);  
 127 (8) Any person for the sole purpose of providing a credit file monitoring subscription  
 128 service to which the consumer has subscribed;  
 129 (9) Any person for the purpose of providing a consumer with a copy of the consumer's  
 130 credit report or credit score upon the consumer's request;  
 131 (10) Any depository financial institution for checking, savings, and investment accounts;  
 132 or  
 133 (11) Any person or entity for insurance purposes, including use in setting or adjusting  
 134 a rate, adjusting a claim, or underwriting.

135 (n) If a security freeze is in place, a consumer credit reporting agency shall not change any  
136 of the following official information in a credit report without sending a written  
137 confirmation of the change to the consumer within 30 days of the change being posted to  
138 the consumer's file: name, date of birth, social security number, and address. Written  
139 confirmation is not required for technical modifications of a consumer's official  
140 information, including name and street abbreviations, complete spellings, or transposition  
141 of numbers or letters. In the case of an address change, the written confirmation shall be  
142 sent to both the new address and the former address.

143 (o) The following persons shall not be required to place a security freeze in a consumer  
144 credit report pursuant to this Code section; provided, however, that any person that shall  
145 not be required to place a security freeze on a consumer credit report under the provisions  
146 of paragraph (3) of this subsection shall be subject to any security freeze placed on a  
147 consumer credit report by another consumer credit reporting agency from which it obtains  
148 information:

149 (1) A check services or fraud prevention services company, including reports on  
150 incidents of fraud, or authorizations for the purpose of approving or processing negotiable  
151 instruments, electronic funds transfers, or similar methods of payment;

152 (2) A deposit account information service company, which issues reports regarding  
153 account closures due to fraud, substantial overdrafts, automated teller machine abuse, or  
154 other similar negative information regarding a consumer to inquiring banks or other  
155 financial institutions for use only in reviewing a consumer request for a deposit account  
156 at the inquiring bank or financial institution;

157 (3) Resellers of consumer credit report information that assemble and merge information  
158 contained in a data base of one or more consumer credit reporting agencies and do not  
159 maintain a permanent data base of consumer credit information from which new  
160 consumer credit reports are produced; or

161 (4) A consumer credit reporting agency's data base or file which consists of information  
162 concerning, and used for, one or more of the following: criminal record information,  
163 fraud prevention or detection, personal claim loss history information, and employment,  
164 tenant, or individual background screening.

165 ~~(p) This Code section shall not prevent a consumer credit reporting agency from charging~~  
166 ~~a fee of no more than \$3.00 to a consumer for each security freeze placement, any~~  
167 ~~permanent removal of the security freeze, or any temporary lifting of the security freeze~~  
168 ~~for a period of time. A consumer credit reporting agency shall not charge a person age 65~~  
169 ~~or over for the placement of a security freeze. A consumer credit reporting agency shall~~  
170 ~~not charge any fee to a victim of identity theft who has submitted a copy of a valid~~  
171 ~~investigative or incident report or complaint with a law enforcement agency about the~~

172 ~~unlawful use of the victim's identifying information by another person that was filed with~~  
 173 ~~the law enforcement agency no more than 90 days prior to the consumer's request for a~~  
 174 ~~security freeze. A consumer credit reporting agency may charge a fee of no more than~~  
 175 ~~\$5.00 to a consumer for each replacement of a unique personal identification number or~~  
 176 ~~password.~~

177 (q) A person that violates this Code section may be investigated and prosecuted under the  
 178 provisions of the Fair Business Practices Act, Code Section 10-1-390, et seq., and may be  
 179 fined not more than \$100.00 for a violation concerning a specific consumer."

180 **SECTION 2.**

181 Said article is further amended by revising Code Section 10-1-914.1, relating to security  
 182 freezes for protected consumers, as follows:

183 "10-1-914.1.

184 (a) A consumer credit reporting agency shall place a security freeze for a protected  
 185 consumer if the consumer credit reporting agency receives a request from the protected  
 186 consumer's representative for the placement of the security freeze and the protected  
 187 consumer's representative:

188 (1) Submits the request to the consumer credit reporting agency at the address or other  
 189 point of contact and in the manner specified by the consumer credit reporting agency;

190 (2) Provides to the consumer credit reporting agency sufficient proof of identification of  
 191 the protected consumer and the representative; and

192 (3) Provides to the consumer credit reporting agency sufficient proof of authority to act  
 193 on behalf of the protected consumer; ~~and~~

194 ~~(4) Pays to the consumer credit reporting agency a fee as provided in subsection (g) of~~  
 195 ~~this Code section.~~

196 (b) If a consumer credit reporting agency does not have a file pertaining to a protected  
 197 consumer when the consumer credit reporting agency receives a request under subsection  
 198 (a) of this Code section, the consumer credit reporting agency shall create a record for the  
 199 protected consumer. Upon receiving the request, the consumer credit reporting agency  
 200 shall verify that no file exists pertaining to the protected consumer or to the protected  
 201 consumer's social security number. A record created under this subsection shall not be  
 202 used to consider the protected consumer's creditworthiness, credit standing, credit capacity,  
 203 character, general reputation, personal characteristics, or mode of living.

204 (c) Within 30 days after receiving a request that meets the requirements of subsection (a)  
 205 of this Code section, a consumer credit reporting agency shall place a security freeze for  
 206 the protected consumer.

207 (d) Unless a security freeze for a protected consumer is removed in accordance with  
 208 subsection (f) or (i) of this Code section, a consumer credit reporting agency shall not  
 209 release the protected consumer's credit report, any information derived from the protected  
 210 consumer's credit report, or any record created for the protected consumer.

211 (e) A security freeze for a protected consumer placed under subsection (c) of this Code  
 212 section shall remain in effect until:

213 (1) The protected consumer or the protected consumer's representative requests the  
 214 consumer credit reporting agency to remove the security freeze in accordance with  
 215 subsection (f) of this Code section; or

216 (2) The security freeze is removed in accordance with subsection (i) of this Code section.

217 (f)(1) If a protected consumer or a protected consumer's representative wishes to remove  
 218 a security freeze for the protected consumer, the protected consumer or the protected  
 219 consumer's representative shall:

220 (A) Submit a request for the removal of the security freeze to the consumer credit  
 221 reporting agency at the address or other point of contact and in the manner specified by  
 222 the consumer credit reporting agency; and

223 (B) Provide to the consumer credit reporting agency sufficient proof of identification  
 224 of the protected consumer and:

225 (i) For a request by the protected consumer, proof that the sufficient proof of  
 226 authority for the protected consumer's representative to act on behalf of the protected  
 227 consumer is no longer valid; or

228 (ii) For a request by the representative of the protected consumer, sufficient proof of  
 229 identification of the representative and sufficient proof of authority to act on behalf  
 230 of the protected consumer; ~~and~~

231 ~~(C) Pay to the consumer credit reporting agency a fee as provided in subsection (g) of~~  
 232 ~~this Code section.~~

233 (2) Within 30 days after receiving a request that meets the requirements of paragraph (1)  
 234 of this subsection, the consumer credit reporting agency shall remove the security freeze  
 235 for the protected consumer.

236 ~~(g)(1) Except as otherwise provided in paragraph (2) of this subsection, a A~~ consumer  
 237 ~~credit reporting agency shall not charge a fee for any service performed under this Code~~  
 238 ~~section.~~

239 ~~(2) A consumer credit reporting agency may charge a reasonable fee, not exceeding~~  
 240 ~~\$10.00, for each placement or removal of a security freeze for a protected consumer;~~  
 241 ~~provided, however, that a consumer credit reporting agency shall not charge any fee~~  
 242 ~~under this Code section if:~~

243 ~~(A) The protected consumer's representative has obtained a police report or affidavit~~  
 244 ~~of alleged identity fraud against the protected consumer and provides a copy of the~~  
 245 ~~report or affidavit to the consumer credit reporting agency; or~~

246 ~~(B) A request for the placement or removal of a security freeze is for a protected~~  
 247 ~~consumer who is under the age of 16 years at the time of the request and the consumer~~  
 248 ~~credit reporting agency has a consumer credit report pertaining to the protected~~  
 249 ~~consumer.~~

250 (h) This Code section shall not apply to the use of a protected consumer's credit report or  
 251 record by:

252 (1) A person administering a credit file monitoring subscription service to which the  
 253 protected consumer has subscribed or the representative of the protected consumer has  
 254 subscribed on behalf of the protected consumer;

255 (2) A person providing the protected consumer or the protected consumer's  
 256 representative with a copy of the protected consumer's credit report on request of the  
 257 protected consumer or the protected consumer's representative; or

258 (3) A person or entity listed in subsection (m) or (o) of Code Section 10-1-914.

259 (i) A consumer credit reporting agency may remove a security freeze for a protected  
 260 consumer or delete a record of a protected consumer if such security freeze was placed or  
 261 the record was created based on a material misrepresentation of fact by the protected  
 262 consumer or the protected consumer's representative.

263 (j)(1) A person who violates this Code section may be investigated and prosecuted under  
 264 the provisions of Part 2 of Article 15 of ~~Chapter 1 of Title 10~~ this chapter, the 'Fair  
 265 Business Practices Act of 1975,' and may be fined not more than \$100.00 for a violation  
 266 concerning a specific protected consumer.

267 (2) The Attorney General may bring an action for temporary or permanent injunctive or  
 268 other relief for any violation of this Code section or an action for the penalty authorized  
 269 in paragraph (1) of this subsection."

270 **SECTION 3.**

271 Chapter 3 of Title 10 of the Official Code of Georgia Annotated, relating to notes and other  
 272 evidences of debt, is amended by adding a new Code section to read as follows:

273 "10-3-6.

274 Notwithstanding any provision of law to the contrary, a bank operating under the authority  
 275 of any territory of the United States shall satisfy the definition of an issuer provided in  
 276 Code Section 11-5-102."



277

**SECTION 4.**

278 All laws and parts of laws in conflict with this Act are repealed.