

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1184 Session of 2015

INTRODUCED BY BARRAR, BAKER, V. BROWN, CALTAGIRONE, COHEN, D. COSTA, DEAN, DeLUCA, GILLEN, JAMES, KAUFFMAN, KILLION, KOTIK, MURT, ROEBUCK, SACCONI, KORTZ AND MICCARELLI, MAY 12, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 3, 2016

AN ACT

1 Amending the act of November 29, 2006 (P.L.1463, No.163),
2 entitled "An act providing for protection from identity
3 theft, for security freezes, for procedures for access after
4 imposition and removal of security freezes and for related
5 matters," further providing for DEFINITIONS AND FOR security <--
6 freeze-; AND PROVIDING FOR PROTECTED PERSONS SECURITY FREEZE. <--

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 3(d) of the act of November 29, 2006 <--
10 (P.L.1463, No.163), known as the Credit Reporting Agency Act, is
11 amended to read:

12 SECTION 1. SECTIONS 2 AND 3(D) OF THE ACT OF NOVEMBER 29, <--
13 2006 (P.L.1463, NO.163), KNOWN AS THE CREDIT REPORTING AGENCY
14 ACT, ARE AMENDED TO READ:

15 SECTION 2. DEFINITIONS.

16 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
17 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
18 CONTEXT CLEARLY INDICATES OTHERWISE:

1 "CONSUMER." AN INDIVIDUAL WHO IS NOT A PROTECTED PERSON.

2 "CONSUMER REPORT." A WRITTEN, ORAL OR OTHER COMMUNICATION OF
3 ANY INFORMATION BY A CONSUMER REPORTING AGENCY BEARING ON A
4 CONSUMER'S OR PROTECTED PERSON'S CREDITWORTHINESS, CREDIT
5 STANDING OR CREDIT CAPACITY.

6 "CONSUMER REPORTING AGENCY." ANY PERSON WHO, FOR MONETARY
7 FEES, DUES OR ON A COOPERATIVE BASIS, REGULARLY ENGAGES IN WHOLE
8 OR IN PART IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER
9 CREDIT INFORMATION OR OTHER INFORMATION ON CONSUMERS OR
10 PROTECTED PERSONS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS
11 TO THIRD PARTIES.

12 "PROTECTED PERSON." AN INDIVIDUAL WHO IS ANY OF THE
13 FOLLOWING:

14 (1) NOT EMANCIPATED AND UNDER 16 YEARS OF AGE AT THE
15 TIME A REQUEST FOR THE PLACEMENT OF A PROTECTED PERSONS
16 SECURITY FREEZE IS MADE.

17 (2) AN INCAPACITATED PERSON UNDER 20 PA.C.S. CH. 55
18 (RELATING TO INCAPACITATED PERSONS).

19 (3) A PROTECTED PERSON UNDER 20 PA.C.S. CH. 59 (RELATING
20 TO UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS
21 JURISDICTION).

22 "PROTECTED PERSONS SECURITY FREEZE." EITHER OF THE
23 FOLLOWING:

24 (1) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE
25 PERTAINING TO A PROTECTED PERSON, A RESTRICTION THAT:

26 (I) IS PLACED ON THE PROTECTED PERSON'S RECORD IN
27 ACCORDANCE WITH SECTION 10.1.

28 (II) PROHIBITS THE CONSUMER REPORTING AGENCY FROM
29 RELEASING THE PROTECTED PERSON'S RECORD EXCEPT AS
30 PROVIDED IN SECTION 10.1.

1 (2) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING
2 TO A PROTECTED PERSON, A RESTRICTION THAT:

3 (I) IS PLACED ON THE PROTECTED PERSON'S CONSUMER
4 REPORT IN ACCORDANCE WITH SECTION 10.1.

5 (II) PROHIBITS THE CONSUMER REPORTING AGENCY FROM
6 RELEASING THE PROTECTED PERSON'S CONSUMER REPORT OR ANY
7 INFORMATION DERIVED FROM THE PROTECTED PERSON'S CONSUMER
8 REPORT EXCEPT AS PROVIDED IN SECTION 10.1.

9 "RECORD." A COMPILATION OF INFORMATION THAT:

10 (1) IDENTIFIES A PROTECTED PERSON.

11 (2) IS CREATED BY A CONSUMER REPORTING AGENCY SOLELY FOR
12 THE PURPOSE OF COMPLYING WITH SECTION 10.1.

13 (3) MAY NOT BE CREATED OR USED TO CONSIDER THE PROTECTED
14 PERSON'S CREDIT WORTHINESS, CREDIT STANDING, CREDIT CAPACITY,
15 CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS OR
16 MODE OF LIVING FOR ANY PURPOSE LISTED IN THE FAIR CREDIT
17 REPORTING ACT (PUBLIC LAW 91-508, 15 U.S.C. § 1681B).

18 "REPRESENTATIVE." A PERSON PROVIDING TO A CONSUMER REPORTING
19 AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A
20 PROTECTED PERSON.

21 "SECURITY FREEZE." A NOTICE PLACED ON A CONSUMER REPORT, AT
22 THE REQUEST OF THE CONSUMER AND SUBJECT TO CERTAIN EXCEPTIONS,
23 THAT PROHIBITS A CONSUMER REPORTING AGENCY FROM RELEASING THE
24 CONSUMER REPORT WITHOUT THE EXPRESS AUTHORIZATION OF THE
25 CONSUMER.

26 "SUFFICIENT PROOF OF AUTHORITY." DOCUMENTATION SHOWING THAT
27 A REPRESENTATIVE HAS AUTHORITY TO ACT ON BEHALF OF A PROTECTED
28 PERSON, INCLUDING, BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

29 (1) AN ORDER ISSUED BY A COURT OF LAW.

30 (2) A LAWFULLY EXECUTED AND VALID POWER OF ATTORNEY.

1 (3) A WRITTEN AND NOTARIZED STATEMENT SIGNED BY THE
2 REPRESENTATIVE THAT EXPRESSLY DESCRIBES THE AUTHORITY OF THE
3 REPRESENTATIVE TO ACT ON BEHALF OF THE PROTECTED PERSON.
4 "SUFFICIENT PROOF OF IDENTIFICATION." INFORMATION OR
5 DOCUMENTATION THAT IDENTIFIES A PROTECTED PERSON OR A
6 REPRESENTATIVE, INCLUDING, BUT NOT LIMITED TO, ANY OF THE
7 FOLLOWING:

8 (1) A SOCIAL SECURITY NUMBER OR A COPY OF A SOCIAL
9 SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION.

10 (2) A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE
11 ISSUED BY THE ENTITY AUTHORIZED TO ISSUE THE BIRTH
12 CERTIFICATE.

13 (3) A COPY OF A DRIVER'S LICENSE, AN IDENTIFICATION CARD
14 ISSUED BY THE DEPARTMENT OF TRANSPORTATION OR ANY OTHER
15 GOVERNMENT-ISSUED IDENTIFICATION.

16 (4) A COPY OF A BILL, INCLUDING, BUT NOT LIMITED TO, A
17 BILL FOR TELEPHONE, SEWER, SEPTIC TANK, WATER, ELECTRIC, OIL,
18 OR NATURAL GAS SERVICES, THAT SHOWS A NAME AND HOME ADDRESS.

19 Section 3. Security freeze.

20 * * *

21 ~~(d) Duration of freeze. A security freeze shall remain in~~ <--
22 ~~place until the [earlier of the] date the consumer reporting~~

23 (D) DURATION OF FREEZE.--A SECURITY FREEZE SHALL: <--

24 (1) REMAIN IN PLACE [UNTIL THE EARLIER OF], EXCEPT AS
25 PROVIDED UNDER SECTION 7(A); OR

26 (2) BE REMOVED WITHIN THREE BUSINESS DAYS FROM THE DATE
27 THE CONSUMER REPORTING agency receives a request from the
28 consumer to remove the security freeze [or until seven years
29 from the date that the security freeze was put in place by
30 the consumer reporting agency] IN ACCORDANCE WITH THIS ACT. <--

1 * * *

2 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

3 SECTION 10.1. PROTECTED PERSONS SECURITY FREEZE.

4 (A) APPLICABILITY.--THE FOLLOWING SHALL APPLY:

5 (1) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS ACT,
6 THIS SECTION SHALL APPLY TO PROTECTED PERSONS AND THEIR
7 REPRESENTATIVES.

8 (2) THIS SECTION SHALL NOT APPLY TO:

9 (I) A PERSON OR ENTITY UNDER SECTION 3(E)(1), (6),
10 (7), (8), (9), (10) OR (12).

11 (II) A PERSON OR ENTITY THAT MAINTAINS OR IS A
12 DATABASE USED SOLELY FOR ANY OF THE FOLLOWING:

13 (A) CRIMINAL RECORD INFORMATION.

14 (B) PERSONAL LOSS HISTORY INFORMATION.

15 (C) FRAUD PREVENTION OR DETECTION.

16 (D) EMPLOYMENT SCREENING.

17 (E) TENANT SCREENING.

18 (B) PLACEMENT.--THE FOLLOWING SHALL APPLY:

19 (1) A CONSUMER REPORTING AGENCY SHALL PLACE A PROTECTED
20 PERSONS SECURITY FREEZE IF:

21 (I) THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST
22 FROM A REPRESENTATIVE FOR THE PLACEMENT OF THE PROTECTED
23 PERSONS SECURITY FREEZE.

24 (II) THE REPRESENTATIVE DOES THE FOLLOWING:

25 (A) SUBMITS THE REQUEST TO THE CONSUMER
26 REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF
27 CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER
28 REPORTING AGENCY.

29 (B) PROVIDES TO THE CONSUMER REPORTING AGENCY
30 SUFFICIENT PROOF OF IDENTIFICATION OF THE PROTECTED

1 PERSON AND THE REPRESENTATIVE.

2 (C) PROVIDES TO THE CONSUMER REPORTING AGENCY
3 SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE
4 PROTECTED PERSON.

5 (D) PAYS TO THE CONSUMER REPORTING AGENCY A FEE
6 AS PROVIDED IN SUBSECTION (H).

7 (2) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE
8 PERTAINING TO A PROTECTED PERSON WHEN THE CONSUMER REPORTING
9 AGENCY RECEIVES A REQUEST UNDER PARAGRAPH (1), THE CONSUMER
10 REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED
11 PERSON.

12 (C) TIMING OF PLACEMENT.--WITHIN 30 DAYS AFTER RECEIVING A
13 REQUEST THAT MEETS THE REQUIREMENTS UNDER SUBSECTION (B) (1), A
14 CONSUMER REPORTING AGENCY SHALL PLACE A PROTECTED PERSONS
15 SECURITY FREEZE.

16 (D) RELEASE OF CONSUMER REPORT PROHIBITED.--UNLESS A
17 PROTECTED PERSONS SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH
18 SUBSECTION (F) OR (I), A CONSUMER REPORTING AGENCY MAY NOT
19 RELEASE THE PROTECTED PERSON'S CONSUMER REPORT, ANY INFORMATION
20 DERIVED FROM THE PROTECTED PERSON'S CONSUMER REPORT OR ANY
21 RECORD CREATED FOR THE PROTECTED PERSON.

22 (E) EFFECTIVE PERIOD.--A PROTECTED PERSONS SECURITY FREEZE
23 SHALL REMAIN IN EFFECT UNTIL EITHER OF THE FOLLOWING OCCURS:

24 (1) THE PROTECTED PERSON OR REPRESENTATIVE REQUESTS THE
25 CONSUMER REPORTING AGENCY TO REMOVE THE SECURITY FREEZE IN
26 ACCORDANCE WITH SUBSECTION (F).

27 (2) THE PROTECTED PERSONS SECURITY FREEZE IS REMOVED IN
28 ACCORDANCE WITH SUBSECTION (I).

29 (F) REMOVAL.--IF A PROTECTED PERSON OR REPRESENTATIVE WISHES
30 TO REMOVE A PROTECTED PERSONS SECURITY FREEZE, THE PROTECTED

1 PERSON OR REPRESENTATIVE SHALL:

2 (1) SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY
3 FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR
4 OTHER POINT OF CONTACT AND IN THE MANNER SPECIFIED BY THE
5 CONSUMER REPORTING AGENCY.

6 (2) PROVIDE THE FOLLOWING TO THE CONSUMER REPORTING
7 AGENCY:

8 (I) IN THE CASE OF A REQUEST BY THE PROTECTED
9 PERSON:

10 (A) PROOF THAT THE SUFFICIENT PROOF OF AUTHORITY
11 FOR THE REPRESENTATIVE TO ACT ON BEHALF OF THE
12 PROTECTED PERSON IS NO LONGER VALID.

13 (B) SUFFICIENT PROOF OF IDENTIFICATION OF THE
14 PROTECTED PERSON.

15 (II) IN THE CASE OF A REQUEST BY A REPRESENTATIVE:

16 (A) SUFFICIENT PROOF OF IDENTIFICATION OF THE
17 PROTECTED PERSON AND REPRESENTATIVE.

18 (B) SUFFICIENT PROOF OF AUTHORITY TO ACT ON
19 BEHALF OF THE PROTECTED PERSON.

20 (3) PAY TO THE CONSUMER REPORTING AGENCY A FEE AS
21 PROVIDED IN SUBSECTION (H).

22 (G) TIMING OF REMOVAL.--WITHIN 30 DAYS AFTER RECEIVING A
23 REQUEST THAT MEETS THE REQUIREMENTS OF SUBSECTION (F), THE
24 CONSUMER REPORTING AGENCY SHALL REMOVE THE PROTECTED PERSONS
25 SECURITY FREEZE.

26 (H) NOTICE.--ANY TIME THAT A CONSUMER IS ENTITLED TO RECEIVE
27 A SUMMARY OF RIGHTS UNDER THE FAIR CREDIT REPORTING ACT (PUBLIC
28 LAW 91-508, 15 U.S.C. § 1681G(C)), THE FOLLOWING NOTICE SHALL BE
29 INCLUDED:

30 PARENTS, GUARDIANS OR CUSTODIANS OF A MINOR CHILD UNDER

1 16 YEARS OF AGE, GUARDIANS OF AN INCAPACITATED PERSON
2 UNDER STATE LAW AND GUARDIANS OF A PROTECTED PERSON UNDER
3 STATE LAW HAVE A RIGHT TO HAVE A RECORD CREATED WITH
4 CERTAIN CONSUMER REPORTING AGENCIES, MORE COMMONLY KNOWN
5 AS CREDIT BUREAUS, TO PREVENT THE CREATION OF A CREDIT
6 REPORT FOR A PROTECTED PERSON AS DEFINED UNDER THE ACT.
7 TO PLACE OR REMOVE A RECORD, YOU SHOULD CONTACT A
8 CONSUMER REPORTING AGENCY AT THE CONTACT POINT PROVIDED
9 FOR THESE REQUESTS. CONSUMER REPORTING AGENCIES HAVE A
10 RIGHT TO CHARGE \$10 FOR THE PLACEMENT AND REMOVAL OF A
11 RECORD, EXCEPT FOR VICTIMS OF IDENTITY THEFT AND FOR
12 THOSE UNDER 16 YEARS OF AGE AND IN FOSTER CARE.

13 (I) FEES.--THE FOLLOWING SHALL APPLY:

14 (1) SUBJECT TO PARAGRAPH (2), A CONSUMER REPORTING
15 AGENCY MAY CHARGE A REASONABLE FEE, NOT EXCEEDING \$10, FOR
16 EACH PLACEMENT OR REMOVAL OF A PROTECTED PERSONS SECURITY
17 FREEZE.

18 (2) NOTWITHSTANDING PARAGRAPH (1), A CONSUMER REPORTING
19 AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION IF ANY OF
20 THE FOLLOWING CIRCUMSTANCES EXIST:

21 (I) EITHER OF THE FOLLOWING APPLIES:

22 (A) THE REPRESENTATIVE HAS OBTAINED A REPORT
23 FROM A LAW ENFORCEMENT AGENCY ALLEGING IDENTITY FRAUD
24 AGAINST THE PROTECTED PERSON AND PROVIDES A COPY OF
25 THE REPORT TO THE CONSUMER REPORTING AGENCY; OR

26 (B) A REQUEST FOR THE PLACEMENT OR REMOVAL OF A
27 PROTECTED PERSONS SECURITY FREEZE IS FOR A PROTECTED
28 PERSON WHO IS UNDER 16 YEARS OF AGE AND IN FOSTER
29 CARE AT THE TIME OF THE REQUEST.

30 (J) EFFECT OF MATERIAL MISREPRESENTATION OF FACT.--A

1 CONSUMER REPORTING AGENCY MAY REMOVE A PROTECTED PERSONS
2 SECURITY FREEZE OR DELETE A RECORD OF A PROTECTED PERSON IF THE
3 PROTECTED PERSONS SECURITY FREEZE WAS PLACED OR THE RECORD WAS
4 CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE
5 PROTECTED PERSON OR REPRESENTATIVE.

6 (K) REMEDY FOR VIOLATION OF SECTION.--A CONSUMER REPORTING
7 AGENCY'S SOLE LIABILITY IS FOR ACTUAL DAMAGES AS A RESULT OF A
8 VIOLATION OF THIS SECTION.

9 Section 2 3. This act shall take effect ~~in 60 days.~~ AS <--
10 FOLLOWS:

11 (1) THE ADDITION OF SECTION 10.1 OF THE ACT SHALL TAKE
12 EFFECT JANUARY 1, 2017.

13 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

14 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
15 DAYS.