



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 317

131st General Assembly  
(As Passed by the House)

**Reps.** Maag, Anielski, Antonio, Arndt, Ashford, Baker, Barnes, Becker, Bishoff, Blessing, Boose, Boyce, Boyd, Brenner, Brown, Buchy, Burkley, Cera, Conditt, Craig, Cupp, Derickson, Dever, DeVitis, Dovilla, Driehaus, Duffey, Fedor, Ginter, Green, Grossman, Hackett, Hagan, Hall, Hambley, Hayes, Henne, Hill, Hood, Howse, T. Johnson, Kunze, Landis, Lepore-Hagan, Manning, McClain, M. O'Brien, S. O'Brien, Patterson, Pelanda, Perales, Phillips, Ramos, Reece, Reineke, Retherford, Rezabek, Roegner, Rogers, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sears, Sheehy, Slaby, Slesnick, K. Smith, R. Smith, Terhar, Thompson, Vitale, Young, Zeltwanger

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## BILL SUMMARY

- Permits a representative of a protected consumer to place a security freeze on the credit record or report of a protected consumer.
- Establishes protocols that credit reporting agencies must follow in relation to a security freeze.
- Specifies the written notification that credit reporting agencies are required to provide in relation to security freezes.
- Applies specified laws pertaining to standard security freezes to protected consumer security freezes.
- Establishes an exemption to security freeze requirement for certain credit reporting agency databases and files that are not a credit report or credit record.

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## CONTENT AND OPERATION

### Summary

The bill 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 protected consumer security freezes. CRAs are the entities that monitor credit and provide credit scores and reports. Under the bill, a protected consumer is either of the following:

- An individual under the age of 16;
- An individual over the age of 16 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 in question. The purpose of such a freeze is to protect an individual from identity theft.

## **CRA protocols**

The bill enables, beginning six months after the bill's effective date, the representative of a protected consumer to place a security freeze on a 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. When making such a request, the representative must present proof of identity for both the representative and the protected consumer and proof of authority to act on behalf of the protected consumer.<sup>1</sup> 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.<sup>2</sup>

If a CRA does not have a credit report for the protected consumer in question (i.e. if the protected consumer does not have any credit history), then the CRA is required to create a credit *record* for such a protected consumer and place a security freeze on the record. The bill prohibits the use of such a credit record for any purpose other than carrying out the security freeze.<sup>3</sup>

## **Removing a security freeze**

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

- The security freeze 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 the age of 16.

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

<sup>2</sup> R.C. 1349.521(B).

<sup>3</sup> R.C. 1349.521(C).



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

A protected consumer's representative must provide sufficient proof of identity for both the protected consumer and the protected consumer's representative. The representative must also present sufficient proof of authority to act on behalf of the protected consumer.

The bill requires a CRA to develop a procedure by which a minor protected consumer, upon reaching 16 years of age, may remove the security freeze created on the minor's behalf. This procedure is to 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 materials.<sup>4</sup>

### **Written notification**

The bill requires CRAs to provide written notification to a protected consumer's representative when required by federal law or when providing the written confirmation required under the bill. The bill 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.**"<sup>5</sup>

### **Release of credit report**

With regard to adult protected consumers, the bill authorizes a CRA to release a credit report upon which has been placed under a security freeze to a person, or subsidiary, affiliate, or agent of that person, or an assignee of a financial obligation owing by the protected consumer, to that person, or a prospective assignee of a financial obligation owing by the protected consumer, to that person in conjunction with the proposed purchase of the financial obligation, with which the protected consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the protected consumer issued a negotiable instrument (such as a check), for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

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<sup>4</sup> R.C. 1349.521(D) and (E).

<sup>5</sup> R.C. 1349.521(F).



With regard to all protected consumers, the bill authorizes a CRA to release a credit report upon which 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 that is acting within the entity's authority;
- A state or local child support enforcement agency;
- A person seeking to use the information contained in the consumer's credit report for the purpose of 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 upon 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 the age of 16.<sup>6</sup>

## **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.

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<sup>6</sup> R.C. 1349.521(G).



## When fees cannot be charged

The bill prohibits a CRA for charging security freeze related fees in the following circumstances:

- For placing a security freeze, if the protected consumer in question has already been the subject of identity theft. However, in such situations, the protected consumer's representative must produce the related police report.
- For placing a security freeze, if the protected consumer in question is in foster care or is a minor protected consumer for whom a credit report already exists.
- For removing the security freeze of a minor protected consumer who has reached the age of 16 and wishes to have a security freeze removed.<sup>7</sup>

## Information alteration

If a security freeze is in place, a consumer credit reporting agency 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 the change 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 is to be sent to both the new address and to the former address.<sup>8</sup>

## Exemptions

The bill 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

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<sup>7</sup> R.C. 1349.521(H).

<sup>8</sup> R.C. 1349.521(I).



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.<sup>9</sup>

## Miscellaneous

The bill stipulates that certain provisions of existing Security Freeze Law and a provision under the bill 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.<sup>10</sup>

## Form of written notification

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

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<sup>9</sup> R.C. 1349.52(L)(3).

<sup>10</sup> R.C. 1349.52(K) through (P) and 1349.521(J).



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.

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.<sup>11</sup>

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<sup>11</sup> R.C. 1349.521(F).

## Definitions

The bill creates the following definitions:

**Adult protected consumer** means a protected consumer who is not a minor protected consumer.

**Credit record** means a compilation of information that meets both of the following:

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

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

**Protected consumer** means an individual, at the time a request for the placement of a security freeze is made, who meets either of the following:

- Is a minor protected consumer;
- Is a person for whom a guardian of the estate or conservator has been appointed.

**Representative** means any person who provides sufficient proof of authority to a consumer credit reporting agency to act on the behalf of a protected consumer. "Representative" includes a parent, guardian, or conservator.

**Sufficient proof of authority** means documentation that shows a representative has authority to act on behalf of a protected consumer. "Sufficient proof of authority" 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. "Sufficient proof of identity" includes any of the following:

- A Social Security number or a copy of a Social Security card issued by the Social Security Administration;
- A certified or official copy of a birth certificate issued by an entity authorized to issue the birth certificate;
- A copy of a driver's license, a state identification card, or any other government-issued identification;
- A copy of a bill, including a bill for telephone or utility services, that shows a name and home address.

The bill also expands the definition of **credit report** to include a credit record created under the bill and makes other changes to definitions to account for protected consumers.<sup>12</sup>

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## HISTORY

ACTION	DATE
Introduced	09-02-15
Reported, H. Financial Institutions, Housing, & Urban Development	12-09-15
Passed House (98-0)	02-17-16

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<sup>12</sup> R.C. 1349.52(A).

