

S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 4, 2014

Introduced by M. of A. DINOWITZ, CLARK, SIMANOWITZ, MARKEY, GUNTHER, HIKIND, MOSLEY, MONTESANO, JACOBS, GOTTFRIED, ZEBROWSKI, GALEF, COOK, HOOPER, COLTON, RAIA, OTIS -- Multi-Sponsored by -- M. of A. ARROYO, CERETTO, CROUCH, DUPREY, HEASTIE, McLAUGHLIN, PEOPLES-STOKES, PERRY, SCHIMEL, SCHIMMINGER, SWEENEY, TITONE, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to credit record freezes and protected minors

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 380-a of the general business law is amended by
2 adding six new subdivisions (o), (p), (q), (r), (s) and (t) to read as
3 follows:
4 (O) THE TERM "PROTECTED CONSUMER" MEANS AN INDIVIDUAL WHO IS UNDER THE
5 AGE OF SIXTEEN YEARS AT THE TIME A REQUEST FOR THE PLACEMENT OF A SECU-
6 RITY FREEZE IS MADE.
7 (P) THE TERM "RECORD" MEANS A COMPILATION OF INFORMATION THAT (1)
8 IDENTIFIES A PROTECTED CONSUMER; (2) IS CREATED BY A CONSUMER CREDIT
9 REPORTING AGENCY SOLELY FOR THE PURPOSE OF COMPLYING WITH SECTION THREE
10 HUNDRED EIGHTY-U OF THIS ARTICLE; AND (3) MAY NOT BE CREATED OR USED TO
11 CONSIDER THE PROTECTED CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING,
12 CREDIT CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTER-
13 ISTICS, OR MODE OF LIVING FOR ANY PURPOSE LISTED IN THIS ARTICLE.
14 (Q) THE TERM "REPRESENTATIVE" MEANS A PERSON WHO PROVIDES TO A CONSUM-
15 ER CREDIT REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON
16 BEHALF OF A PROTECTED CONSUMER.
17 (R) THE TERM "SECURITY FREEZE FOR A PROTECTED PERSON" MEANS (1) IF A
18 CONSUMER CREDIT REPORTING AGENCY DOES NOT HAVE A FILE PERTAINING TO A
19 PROTECTED CONSUMER, A RESTRICTION THAT: (I) IS PLACED ON THE PROTECTED
20 CONSUMER'S RECORD IN ACCORDANCE WITH THIS SECTION; AND (II) PROHIBITS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 THE CONSUMER CREDIT REPORTING AGENCY FROM RELEASING THE PROTECTED
2 CONSUMER'S RECORD EXCEPT AS PROVIDED IN THIS SECTION; OR

3 (2) IF A CONSUMER CREDIT REPORTING AGENCY HAS A FILE PERTAINING TO THE
4 PROTECTED CONSUMER, A RESTRICTION THAT (I) IS PLACED ON THE PROTECTED
5 CONSUMER'S CONSUMER CREDIT REPORT IN ACCORDANCE WITH THIS SECTION; AND
6 (II) PROHIBITS THE CONSUMER CREDIT REPORTING AGENCY FROM RELEASING THE
7 PROTECTED CONSUMER'S CONSUMER CREDIT REPORT OR ANY INFORMATION DERIVED
8 FROM THE PROTECTED CONSUMER'S CONSUMER CREDIT REPORT EXCEPT AS PROVIDED
9 IN THIS SECTION.

10 (S) THE TERM "SUFFICIENT PROOF OF AUTHORITY" MEANS DOCUMENTATION THAT
11 SHOWS A REPRESENTATIVE HAS AUTHORITY TO ACT ON BEHALF OF A PROTECTED
12 CONSUMER. "SUFFICIENT PROOF OF AUTHORITY" SHALL INCLUDE, BUT NOT BE
13 LIMITED TO, (1) AN ORDER ISSUED BY A COURT OF LAW; OR (2) A WRITTEN,
14 NOTARIZED STATEMENT SIGNED BY A REPRESENTATIVE THAT EXPRESSLY DESCRIBES
15 THE AUTHORITY OF THE REPRESENTATIVE TO ACT ON BEHALF OF A PROTECTED
16 CONSUMER.

17 (T) THE TERM "SUFFICIENT PROOF OF IDENTIFICATION" MEANS INFORMATION OR
18 DOCUMENTATION THAT IDENTIFIES A PROTECTED CONSUMER OR A REPRESENTATIVE
19 OF A PROTECTED CONSUMER. "SUFFICIENT PROOF OF IDENTIFICATION" SHALL
20 INCLUDE, BUT NOT BE LIMITED TO, (1) A SOCIAL SECURITY NUMBER OR A COPY
21 OF A SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION;
22 (2) A CERTIFIED OR OFFICIAL COPY OF A BIRTH CERTIFICATE; OR (3) A COPY
23 OF A DRIVER'S LICENSE, AN IDENTIFICATION CARD ISSUED BY THE DEPARTMENT
24 OF MOTOR VEHICLES, OR ANY OTHER GOVERNMENT-ISSUED PHOTO IDENTIFICATION.

25 S 2. Section 380-u of the general business law, as relettered by chap-
26 ter 63 of the laws of 2006, is relettered section 380-v and a new
27 section 380-u is added to read as follows:

28 S 380-U. SECURITY RECORD FREEZE FOR PROTECTED MINORS. (A) A CONSUMER
29 CREDIT REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED
30 CONSUMER IF:

31 (1) THE CONSUMER CREDIT REPORTING AGENCY RECEIVES A REQUEST FROM THE
32 PROTECTED CONSUMER'S REPRESENTATIVE FOR THE PLACEMENT OF THE SECURITY
33 FREEZE UNDER THIS SECTION; AND

34 (2) THE PROTECTED CONSUMER'S REPRESENTATIVE (I) SUBMITS THE REQUEST TO
35 THE CONSUMER CREDIT REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF
36 CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER CREDIT REPORTING
37 AGENCY; (II) PROVIDES TO THE CONSUMER CREDIT REPORTING AGENCY SUFFICIENT
38 PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER AND THE REPRESENTATIVE;
39 (III) PROVIDES TO THE CONSUMER CREDIT REPORTING AGENCY SUFFICIENT
40 PROOF OF AUTHORITY TO ACT ON BEHALF OF THE PROTECTED CONSUMER; AND
41 (IV) PAYS TO THE CONSUMER CREDIT REPORTING AGENCY A FEE, IF ANY, AS
42 PROVIDED IN THIS SECTION.

43 (B) IF A CONSUMER CREDIT REPORTING AGENCY DOES NOT HAVE A FILE
44 PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER CREDIT REPORTING
45 AGENCY RECEIVES A REQUEST UNDER SUBDIVISION (A) OF THIS SECTION, THE
46 CONSUMER CREDIT REPORTING AGENCY SHALL CREATE A RECORD FOR THE PROTECTED
47 CONSUMER.

48 (C) WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST THAT MEETS THE
49 REQUIREMENTS OF PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, A
50 CONSUMER CREDIT REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE
51 PROTECTED CONSUMER ON THE RECORD CREATED FOR THE PROTECTED CONSUMER OR
52 ON THE FILE PERTAINING TO THE PROTECTED CONSUMER IN THE EVENT THAT THE
53 CONSUMER REPORTING AGENCY ALREADY HAS A FILE PERTAINING TO THE PROTECTED
54 CONSUMER.

55 (D) UNLESS A SECURITY FREEZE FOR A PROTECTED PERSON IS REMOVED IN
56 ACCORDANCE WITH THIS SECTION, A CONSUMER CREDIT REPORTING AGENCY MAY NOT

1 RELEASE THE PROTECTED CONSUMER'S CONSUMER CREDIT REPORT, ANY INFORMATION
2 DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT, OR ANY RECORD
3 CREATED FOR THE PROTECTED CONSUMER.

4 (E) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER THIS
5 SECTION SHALL REMAIN IN EFFECT UNTIL:

6 (1) THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE
7 REQUESTS THE CONSUMER CREDIT REPORTING AGENCY TO REMOVE THE SECURITY
8 FREEZE FOR A PROTECTED PERSON IN ACCORDANCE WITH SUBDIVISION (F) OF THIS
9 SECTION; OR

10 (2) THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH SUBDIVISION (I)
11 OF THIS SECTION.

12 (F) IF A PROTECTED CONSUMER OR A PROTECTED CONSUMER'S REPRESENTATIVE
13 WISHES TO REMOVE A SECURITY FREEZE FOR THE PROTECTED CONSUMER, THE
14 PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE SHALL:

15 (1) SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY FREEZE TO THE
16 CONSUMER CREDIT REPORTING AGENCY AT THE ADDRESS OR OTHER POINT OF
17 CONTACT AND IN THE MANNER SPECIFIED BY THE CONSUMER CREDIT REPORTING
18 AGENCY;

19 (2) PROVIDE TO THE CONSUMER CREDIT REPORTING AGENCY: (I) IN THE CASE
20 OF A REQUEST BY THE PROTECTED CONSUMER: (A) PROOF THAT THE SUFFICIENT
21 PROOF OF AUTHORITY FOR THE PROTECTED CONSUMER'S REPRESENTATIVE TO ACT ON
22 BEHALF OF THE PROTECTED CONSUMER IS NO LONGER VALID OR THAT THE
23 PROTECTED CONSUMER HAS ATTAINED THE AGE OF SIXTEEN; AND (B) SUFFICIENT
24 PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER; OR (II) IN THE CASE
25 OF A REQUEST BY THE REPRESENTATIVE OF A PROTECTED CONSUMER: (A) SUFFI-
26 CIENT PROOF OF IDENTIFICATION OF THE PROTECTED CONSUMER AND THE REPRE-
27 SENTATIVE; AND (B) SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF THE
28 PROTECTED CONSUMER; AND (C) PAY TO THE CONSUMER CREDIT REPORTING AGENCY
29 A FEE, IF ANY, AS PROVIDED IN SUBDIVISION (H) OF THIS SECTION.

30 (G) WITHIN THIRTY DAYS AFTER RECEIVING A REQUEST THAT MEETS THE
31 REQUIREMENTS OF SUBDIVISION (F) OF THIS SECTION, THE CONSUMER CREDIT
32 REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE PROTECTED
33 CONSUMER.

34 (H)(1) A CONSUMER CREDIT REPORTING AGENCY MAY CHARGE A REASONABLE FEE,
35 NOT EXCEEDING FIFTEEN DOLLARS, FOR EACH PLACEMENT OR REMOVAL OF A SECU-
36 RITY FREEZE FOR A PROTECTED CONSUMER AS PROVIDED FOR IN SUBPARAGRAPH
37 (IV) OF PARAGRAPH TWO OF SUBDIVISION (A) OR CLAUSE (C) OF SUBPARAGRAPH
38 (II) OF PARAGRAPH TWO OF SUBDIVISION (F) OF THIS SECTION. A CONSUMER
39 CREDIT REPORTING AGENCY SHALL NOT CHARGE A FEE FOR ANY OTHER SERVICE
40 PERFORMED UNDER THIS SECTION.

41 (2) NOTWITHSTANDING PARAGRAPH ONE OF THIS SUBDIVISION, A CONSUMER
42 CREDIT REPORTING AGENCY MAY NOT CHARGE ANY FEE UNDER THIS SECTION IF;
43 (I) THE PROTECTED CONSUMER'S REPRESENTATIVE: (A) HAS OBTAINED A REPORT
44 OF ALLEGED IDENTITY THEFT OR FRAUD AGAINST THE PROTECTED CONSUMER; AND
45 (B) PROVIDES A COPY OF THE REPORT TO THE CONSUMER CREDIT REPORTING AGEN-
46 CY; OR (II) THE CONSUMER CREDIT REPORTING AGENCY HAS A CONSUMER CREDIT
47 REPORT PERTAINING TO THE PROTECTED CONSUMER.

48 (I) A CONSUMER CREDIT REPORTING AGENCY SHALL REMOVE A SECURITY FREEZE
49 FOR A PROTECTED CONSUMER, OR DELETE A RECORD OF A PROTECTED CONSUMER,
50 IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS CREATED BASED ON A
51 MATERIAL MISREPRESENTATION OF FACT BY THE PROTECTED CONSUMER OR THE
52 PROTECTED CONSUMER'S REPRESENTATIVE.

53 (J) THIS SECTION DOES NOT APPLY TO:

54 (1) A PERSON ADMINISTERING A CREDIT FILE MONITORING SUBSCRIPTION
55 SERVICE TO WHICH: (I) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR (II) THE

1 REPRESENTATIVE OF THE PROTECTED CONSUMER HAS SUBSCRIBED ON BEHALF OF THE
2 PROTECTED CONSUMER;

3 (2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE PROTECTED CONSUM-
4 ER'S REPRESENTATIVE WITH A COPY OF THE PROTECTED CONSUMER'S CONSUMER
5 CREDIT REPORT UPON THE REQUEST OF THE PROTECTED CONSUMER OR THE
6 PROTECTED CONSUMER'S REPRESENTATIVE;

7 (3)(I) AN ENTITY LISTED IN PARAGRAPHS THREE THROUGH EIGHT OF SUBDIVI-
8 SION (M) OF SECTION THREE HUNDRED EIGHTY-T OF THIS ARTICLE; (II) AN
9 ENTITY LISTED IN SUBDIVISION (P) OF SECTION THREE HUNDRED EIGHTY-T OF
10 THIS ARTICLE; OR (III) A CONSUMER CREDIT REPORTING AGENCY'S DATABASE OR
11 FILE THAT CONSISTS OF INFORMATION CONCERNING, AND USED FOR, ONE OR MORE
12 OF THE FOLLOWING: CRIMINAL RECORD INFORMATION, FRAUD PREVENTION OR
13 DETECTION, PERSONAL LOSS HISTORY INFORMATION, AND EMPLOYMENT, TENANT, OR
14 BACKGROUND SCREENING.

15 (K) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY
16 FOR A VIOLATION OF THIS SECTION SHALL BE IN AN ACTION COMMENCED BY THE
17 ATTORNEY GENERAL.

18 S 3. This act shall take effect January 1, 2015.