

# SB 93 – Security Freeze for Protected Consumers

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## Sec. 1

Section 1 exempts protected consumers from current security freeze statutes.

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Who is a protected consumer?

A person who is an incapacitated person or under 16 years of age.

# Definition of *incapacitated person*

An **incapacitated person** is a person whose ability to receive and evaluate information or to communicate decisions is impaired to the extent that the person lacks the ability to provide or arrange for the essential requirements for the person's physical health or safety without court-ordered assistance.

# Why Sixteen?

Consumers at 16 years of age typically begin working, own a cell phone, have a bank account, and have established active credit. 26 other states have reduced the age from 18 to 16.

## A credit freeze for a minor and a credit freeze for an adult, while similar in name, in practice they operate in very different ways.

- ▶ A credit freeze for **an adult** is placed to **temporarily turn off the availability of already established credit** for that individual. The request for a freeze could be due to a recent identity theft or for other purposes. Because a credit report was previously created by a lending agency and therefore currently exists for an adult, one can turn on and off their credit by placing a freeze.
- ▶ In the case of **a minor**, a credit report should not exist for a person under the age of 16. Therefore, in order to place a freeze, a credit reporting agency must (1) verify and authenticate the identities of both the minor and the requestor, (2) verify the relationship of the person requesting the freeze for the minor, and (3) **create a new record** (prohibiting a credit report from being created in the future for the minor).

# Sec. 2

## Creates Article 2A. Security Freeze for Protected Consumers

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Article 2A sets up a system in state statute for placement of and removal of a security freeze for minors and incapacitated consumers. The bill puts in place requirements for identification of parties involved, verification of authority of personal representatives, accessing the record by the representative or other entities with legal purpose, and the lifting of a security freeze.

# Placement of a Security Freeze

**AS 45.48.300 - A consumer credit reporting agency is mandated to place a freeze on a protected consumer's report if:**

- ▶ A protected consumer's representative requests one.
- ▶ The protected consumer's representative
  - ▶ Submits the request in a manner specified by the agency
  - ▶ Submits proof of identification of the protected consumer
  - ▶ Submits proof of identification of the representative and proof of authority
  - ▶ Pay the fee of not more than \$5.00

# Creation of a Record for a Protected Consumer

## **AS 45.48.310 - Record**

If a protected consumer does not have a credit report with the agency, the agency will create a record for the protected consumer and place a freeze on it.

# Proof of Identification and Authority

## **AS 45.48.320 - Proof of Identification**

- ▶ Proof of Identification Includes:
  - ▶ Social Security number or copy of SS Card
  - ▶ Certified or official birth certificate
  - ▶ A driver's license or identification card issued by the Division of Motor Vehicles
  - ▶ Other identification issued by a government agency
- ▶ Proof of Authority Includes:
  - ▶ A court order
  - ▶ A written, notarized statement expressly describing the authority that the representative has signed

# Time of Placement of Security Freeze

## **AS 45.48.330 - Placement of Freeze**

The agency must place a freeze on the credit report of record no later than 30 days after receiving the request.

# Operation of Security Freeze

## **AS 45.48.340 - Operation of Freeze**

Once a freeze is placed on the report or record, the agency cannot release information about the record without permission from the representative or consumer unless the freeze was placed based on misrepresentation of fact or the agency has received a request for removal of the security freeze from the representative.

# Duration of Security Freeze

## **AS 45.48.350 - Duration of Freeze**

A security freeze remains in effect until the representative requests the freeze be removed or if the agency determines the freeze occurred because of a misrepresentation of facts.

# Effect of Material Misrepresentation of Fact

## **AS 45.48.370 - Material Misrepresentation of Fact**

The agency may remove a security freeze or delete the record if the security freeze was obtained using a material misrepresentation of fact.

## Removal of Security Freeze

**AS 45.48.360 - Removal of Security Freeze.** **(a)** The protected consumer or his representative can have a freeze removed by:

- ▶ Submitting a request in the manner prescribed by the agency
- ▶ Providing sufficient proof of:
  - ▶ Identification of protected consumer
  - ▶ Identification of representative
  - ▶ Authority for the representative
- ▶ Pay the agency a fee of not more than \$5.00

**(b)** The agency has not more than 30 days to remove the freeze

# Charges

## **AS 45.48.380 - Charges.**

- ▶ A consumer credit reporting agency may not charge more than \$5.00
- ▶ The agency may not charge a fee when:
  - ▶ The protected consumer's representative submits a police report, investigative report of complaint involving criminal impersonation in the 1<sup>st</sup> degree
  - ▶ The protected consumer is under the age of 16 and the agency has created a credit record for that consumer

# Exemptions

**AS 45.48.390 - Exemptions.** The following entities do not create data and are not originators of credit reports therefore they should not be required to create a credit record to freeze.

- ▶ A person with a court order
- ▶ A government agency establishing and enforcing child support orders
- ▶ Dept. of Health & Social Services and its agents in investigating fraud
- ▶ Dept. of Revenue and its agents when investigating or collecting delinquent taxes, unpaid court orders, or other statutory responsibilities
- ▶ A credit file monitoring service the protected consumer is a subscriber to
- ▶ A person preparing a credit report for an inquiring bank or financial institution regarding account closures because of fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding a protected consumer

# Exemptions (continued)

**AS 45.48.390** - **Exemptions.** The following entities do not create data and are not originators of credit reports therefore they should not be required to create a credit record to freeze.

- ▶ If the report of the agency consists entirely of information used solely for one or more of the following:
  - ▶ Criminal records information
  - ▶ Personal loss information
  - ▶ Fraud prevention or detection
  - ▶ Tenant screening
  - ▶ Employment screening

# Definitions

## AS 45.48.395 - Definitions

**“consumer credit reporting agency”** - a person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing credit reports to third parties, but does not include a person who issues the report.

## Sec. 3 - Transition

This transition language provides that security freezes put in place prior to the effective date of this Act, will remain enforced under the same statutes as they did when the freeze was placed on the record.

## AMENDMENT TO SB 93

- The amendment to SB 93 would eliminate the \$5.00 fee to place a credit freeze on a credit report.
- It does not eliminate the \$5.00 fee to create a credit record for a minor or incapacitated person.



QUESTIONS?