

April 18, 2005

H 1248. IDENTITY THEFT PROTECTION ACT OF 2005 (=S 1048). *ENACTING THE IDENTITY THEFT PROTECTION ACT OF 2005.* Identical to S 1048, introduced 3/24/05.

Intro. by Goforth, Sutton, Kiser, Ray.

Ref. to Judiciary III

GS 1, 14, 15A, 19C, 75, 120, 132

May 23, 2005

H 1248. IDENTITY THEFT PROTECTION ACT OF 2005. Intro. 4/18/05. House committee substitute adopted 5/19/05 makes the following changes to 1st edition.

Social security number protection. In addition to prohibiting businesses from using an individual's social security number for a variety of purposes, also prohibits businesses from using six digits or more of a social security number. Adds intent requirement to prohibitions against printing social security number on cards required to access services and selling or disclosing social security number. Makes certain prohibitions effective October 1, 2006. Adds an exception to prohibition against selling or disclosure of social security number when the third party seeking disclosure does so for a legitimate business purpose as defined in act. Also permits use of a social security number to confirm the accuracy of the social security number for the purpose of obtaining a credit report as permitted by federal law, for the opening of an account or the provision of or payment for a product or service authorized by an individual, or for listed purposes under the federal Fair Credit Reporting Act.

Security freeze. Provides that consumer may request security freeze only by certified mail (was, by certified mail, telephone, or through a secure electronic mail connection). Requires that credit reporting agency confirm consumer's request in writing no later than ten (was, five) business days after implementing freeze. Deletes requirement that agency develop procedures for temporarily suspending a security freeze in the manner required by the Electronic Signatures in Global and National Commerce Act and adds requirement that upon consumer's request for a freeze agency inform consumer of the process for allowing temporary access to the consumer's credit report. Deletes provision prohibiting agency from suggesting that a consumer's security freeze reflects a negative credit rating. Replaces provision authorizing agency to charge consumer up to \$5 for security freeze only in certain listed circumstances with provision stating that section does not prevent a consumer credit reporting agency from charging a fee of up to \$10 for each freeze and each permanent or temporary removal of freeze, unless person requesting freeze has been a victim of identity theft. Adds a general exception to security freeze for requests from federal, State, and local governmental entities and for any depository financial institution for checking, savings, and investment accounts. Adds prohibition against agency changing specific listed information in consumer's credit report without sending a written confirmation of the change to the consumer within 30 days of the change being posted to the consumer's file. Adds specific exceptions from security freeze for check, fraud prevention, and deposit account information services, and consumer credit reporting agencies under certain circumstances. Modifies notice required by Act to provide specific examples of transactions that may be delayed by a security freeze. Deletes provision limiting disclosure of a consumer's credit header information.

Destruction of personal information records. Deletes requirement that businesses implement policies that ensure that unauthorized persons will not have access to personal information during the period between the discarding of the record and its destruction. Exempts certain consumer reporting agencies from information destruction requirements.

Protection from security breaches. Provides that for purposes of section, personal information does not include electronic identification numbers, electronic mail, Internet accounts, a parent's legal surname prior to marriage, or a password unless this information would permit access to a person's financial account or resources. Authorizes the delay in giving notice of a security breach to a consumer if it may jeopardize national or homeland security and lists information that must be included in notice. Authorizes a business to give substitute notice if it does not have sufficient contact information or is unable to identify particular persons affected by security breach. Requires that a business that provides required notice to more than 1,000 consumers at one time notify the Attorney General's Office and all consumer reporting agencies

that compile and maintain files on consumers on a nationwide basis of the details of that notice. Deletes statement that any waiver of Article's provisions is void and unenforceable. Provides that any financial institution that is in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice will be considered to be in compliance with act.

Social security number use by government agencies. Modifies proposed GS 132-1.8 to also prohibit local governmental agencies from using six digits or more of a person's social security number for purposes listed and to add an intent requirement to prohibition against printing social security number on cards required to access services. Makes certain prohibitions against social security number use effective July 1, 2007. Deletes prohibition against governmental entities selling or otherwise disclosing a social security number to a third party without an individual's written consent. Adds exceptions to prohibitions against governmental use of social security number for certain official records. Prohibits State and local government agencies from denying access to identifying information to the news media for legitimate business purposes as defined. Provides that a false representation made by a representative of the news media to obtain identifying information is a Class F felony. Also requires that clerks of courts, in addition to registers of deeds, post a notice advising persons that filed documents should not include social security numbers unless expressly required by law. Specifies that a register of deeds or clerk of court will not be liable for any claim that results from a social security number or other identifying information that is included in a public record.

Miscellaneous. Requires that State agencies report annually by January 1 to General Assembly on their efforts to reduce identity theft. Deletes all provisions specifically authorizing an individual to bring a civil action to recover damages plus reasonable court costs and attorney's fees for violation of various provisions of act. Deletes definition of "credit header information" and adds definition of "proper identification." Makes technical and conforming changes.

July 6, 2006

H 1248. AMEND IDENTITY THEFT PROTECTION ACT OF 2005 (NEW). Filed 4/14/05. Senate committee substitute deletes all provisions of 2nd edition and replaces it with *AN ACT AMENDING THE IDENTITY THEFT PROTECTION ACT OF 2005*. (1) Enacts new GS 132-1.10(c1), effective October 1, 2006, to require that State agencies or political subdivisions that experience a security breach, as that term is defined in GS Chapter 75, Article 2A (Identity Theft Protection Act), comply with the notification requirements of GS 75-65. (2) Enacts new GS 132-1.10(i) to provide that any identifying information redacted from a public record is not a "public record," but that the record from which identifying information has been redacted is a "public record." (3) Amends GS 132-1.10(d) to also prohibit a person from filing a document that contains identifying information with the Department of the Secretary of State (was, prohibition applied only to a register of deeds or the courts). Also amends GS 132-1.10(e) to provide that the inclusion of identifying information does not affect the document's validity as between the parties and that the Department may not reject the document for recording because of the inclusion of identifying information. (4) Amends GS 132-1.10(f), (g), and (h) to include the Department of the Secretary of State in the list of governmental entities required to redact identifying information from their records upon request and to post a notice advising the public of this right. Provides that those amendments expire on July 1, 2007. (5) Exempts identifying information accessible on the Secretary of State's Web site from GS 132-1.10(b)(5) (prohibiting State agencies from intentionally making identifying information available to the general public) "until and after" July 1, 2007. (6) Requires that the Secretary of State study the alternatives and costs for redacting identifying information contained in its records, including its Internet Web site, and report the results of its study to the Office of State Budget and Management and to General Assembly committees on or before February 1, 2007.

July 11, 2006

H 1248. AMEND IDENTITY THEFT PROTECTION ACT OF 2005. Filed 4/14/05. Senate committee substitute makes the following changes to 3rd edition. Transfers provisions from proposed GS 132-1.10(i) (providing that identifying information is not a public record, but that a

record from which identifying information is redacted is a public record if it would otherwise be a public record but for the identifying information) to GS 132-1.10(b)(5). Adds statement that identifying information is also confidential. Further amends GS 132-1.10(b)(5) to provide that agencies must disclose public records in response to a public records request even though those records contain identifying information, but only after that information is removed or redacted. Revises Section 8 of act to also provide that identifying information accessible by magnetic tapes, electronic data feeds or electronic file transfers of all records or updates of records on file with the Secretary of State are exempt from GS 132-1.10(b)(5) (prohibiting State agencies from intentionally making identifying information available to the general public) until July 1, 2007 (was, until and after July 1, 2007). Directs the Secretary of State, whenever funds are made available, to make it a priority to remove identifying information contained in the Uniform Commercial Code financing statements filed with the Department no later than June 30, 2007.

August 4, 2006

SL 2006-173 (H 1248). AMEND IDENTITY THEFT PROTECTION ACT OF 2005. AN ACT AMENDING THE IDENTITY THEFT PROTECTION ACT OF 2005. Summarized in *Daily Bulletin* 4/18/05, 5/23/05, 7/6/06, and 7/11/06. Enacted August 1, 2006. Section 1 is effective October 1, 2006. The remainder is effective August 1, 2006.