

March 24, 2005

**S 1048. IDENTITY THEFT PROTECTION ACT OF 2005. ENACTING THE IDENTITY THEFT PROTECTION ACT OF 2005.** Enacts new Article 2A of GS Chapter 75, which includes following provisions intended to thwart identity theft:

*Social security number protection.* Prohibits businesses from making an individual's social security number available to the public, printing number on any card required to access products or services or on materials mailed to individual (unless required by State or federal law), requiring that individual transmit number over the Internet or use number to access Web except under listed circumstances, or disclosing number to a third party without individual's permission. Lists exceptions to prohibitions. Authorizes individual to bring a civil action against any individual who violates section and to seek recovery under GS 75-16 or statutory damages of \$1,000, whichever is greater, plus reasonable court costs and attorney's fees. Effective July 1, 2006.

*Security freeze.* Requires that credit reporting agency implement security freeze no later than five business days after receiving request or three business days after receiving a secure electronic request, and that no later than five business days after request agency must confirm request in writing and inform consumer of procedure for removing security freeze or permitting limited disclosures of credit report. Agency must also provide consumer with a unique personal identification number for consumer's use in modifying security freeze and must inform consumer if third party requests access to report for the purpose of extending credit. Establishes procedures for suspension or cancellation of security freeze. Requires that summary of rights under the federal Fair Credit Reporting Act must also include specific notice as set forth in Act. Lists several exceptions to security freeze that generally apply to requests from federal, State, and local governmental entities, businesses with which consumer has a business relationship, and companies that issue consumer credit reports. Allows agency to charge consumer up to \$5 only in certain listed circumstances, otherwise freeze is free. Provides that the consumer is entitled to notice of a release of information in violation of article and to file a civil action under GS 75-16 or recover statutory damages of \$1,000 per violation and seek injunctive relief. Also limits an agency's right to furnish a consumer's credit header information in certain listed situations.

*Destruction of personal information records.* Requires that businesses take reasonable measures to protect against unauthorized access to a resident's personal information, including implementation of paper document and electronic media destruction procedures and limiting access to information before record's destruction. Also requires that businesses ensure that contractors comply with these requirements.

*Protection from security breaches.* Requires that businesses that possess personal information on NC residents notify them when there has been a security breach as soon as possible after the breach, except businesses need not inform consumers of breach when it is not likely to subject them to the risk of criminal activity. Lists forms of acceptable notice. Authorizes consumers to bring a civil action against any individual who violates section and seek recovery under GS 75-16 or statutory damages of \$1,000, whichever is greater, plus reasonable court costs and attorney's fees.

*Social security number use by government agencies.* Amends GS 132-1.8 to place numerous prohibitions on the use of social security numbers by State and local government agencies, including collecting a person's social security number unless otherwise authorized by law, failing to segregate those numbers collected from other official records or to provide person with explanation of reason number has been requested, printing the number on any card required for the individual to access government services or printing number on materials mailed to individual (unless required by State or federal law), or otherwise disclosing number to third party without individual's consent. Lists exceptions to prohibitions. Also limits use of numbers by a register of deeds. Effective October 1, 2005, except restrictions on use of number on cards or in mailings effective July 1, 2007.

*Miscellaneous.* Requires that State agencies report to General Assembly on their efforts to reduce identity theft. Enacts new GS 14-113.21A to authorize local law enforcement agencies to take reports of identity theft even if another law enforcement agency has jurisdiction over investigation of crime. Amends GS 1-539.2C to establish minimum damages of \$500 for identity theft. Unless otherwise noted, act effective December 1, 2005.

**Intro. by Clodfelter.**

Ref. to Judiciary I

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

May 23, 2005

**S 1048. IDENTITY THEFT PROTECTION ACT OF 2005.** Intro. 3/24/05. Senate committee substitute makes the following changes to 1st edition. Makes changes that are identical to those changes made by House committee substitute adopted 5/19/05 to identical 1st edition of H 1248, introduced 4/18/05, except (1) does not define those legitimate business purposes that would authorize the sale or disclosure of a social security number, (2) retains provision making any waiver of the provisions of Article void and unenforceable, and (3) specifically requires that governmental contractors also comply with prohibitions against use of social security numbers by governmental agencies.

July 26, 2005

**S 1048. IDENTITY THEFT PROTECTION ACT OF 2005.** Intro. 3/24/05. House committee substitute makes the following changes to 2nd edition.

Makes the following changes to the proposed "Identity Theft Protection Act." (1) Defines "encryption" and "redaction" and modifies definition of "security breach" to include acquisition of unencrypted and unredacted personal information used or likely to be used illegally or that creates a material risk of harm to a consumer, and any unauthorized acquisition of encrypted personal information. (2) Modifies proposed GS 75-62 (social security number protection) and 132-1.8 (limiting use of social security numbers by State and local government agencies) to prohibit use of only a person's entire social security number (was, six digits or more of number). (3) Deletes provisions in GS 75-63 (security freeze procedures) and 132-1.8(f) (removal of certain identifying information from official records) which authorized a person's attorney-in-fact or legal guardian to make requests on person's behalf. (4) Further modifies security freeze requirements to delete requirement that consumer reporting agency notify consumer five business days prior to the removal of freeze due to consumer's material misrepresentation. (5) Modifies GS 75-62 to prohibit the disclosure of social security number to a third party without consumer's consent if person disclosing information knows or upon the exercise of reasonable diligence would have reason to believe (was, knows or has reasonable grounds to believe) that third party lacks a legitimate purpose for obtaining number. Provides that social security number protections also apply to applications to amend or terminate accounts. Also provides that prohibitions against social security number disclosure do not apply when used for a purpose authorized under provisions of the Gramm-Leach-Bliley Act or to locate a missing person or one who is due a benefit. (6) Enacts new GS 75-63(l)(11) to also exempt from security freeze protections the use of a consumer credit report by any property and casualty insurer for certain listed purposes. (7) Modifies GS 75-64 (requirements for destruction of personal records) to exempt health care facilities that are subject to federal health information protections and to provide that violation is an illegal trade practice. (8) Revises proposed GS 75-65 (protection from security breaches) to require that any business that owns or licenses personal information notify consumer of security breaches without unreasonable delay and to require that any business that maintains or possesses that information notify consumer following the breach's discovery. Further modifies section to authorize business to delay notification of consumer if business receives written notice that notice would impede a criminal investigation or jeopardize homeland security or if business documents an oral request by law enforcement. Also authorizes business to provide notice to consumer by direct telephone contact. Provides that no private right of action may be brought for violation of section unless a person can demonstrate injury and prohibits assignment of causes of action arising under Article. (9) Revises GS 132-1.8 to make section inapplicable to redacted social security numbers, to delete proposed sub-section (d) regarding access to information by the news media, and to clarify that an instrument's validity is not affected by the inclusion of personal information and that the register of deeds may not reject an instrument because it includes personal information. Also limits public access to a request to redact information, provides that the clerk has no duty to remove a redaction, and imposes a fine of \$500 for requesting a redaction without proper authority. Revises proposed GS 132.1.8(b)(9) to provide

that even where a social security number may be included in a mailing, the number or any portion of the number may not be printed on the outside of the mailing. Makes technical changes.

August 22, 2005

**S 1048. IDENTITY THEFT PROTECTION ACT OF 2005.** Intro. 3/24/05. House amendments make the following changes to 3rd edition. Third edition established a list of identifiers that may not be included in documents filed or recorded by a register of deeds or court and that a person may request be removed from records appearing on a register of deeds' or court's website. Amendment #1 adds employer taxpayer identification number to that list. Third edition prohibited government agencies and employees from intentionally communicating or making available to the public social security numbers and "identifying information," and adopted the definition of identifying information that appears in GS 14-113.20(b) with certain exceptions. Amendment #2 adds drivers license numbers appearing on law enforcement records to the list of exceptions. Both amendments make additional clarifying and technical changes.

September 21, 2005

**SL 2005-414 (S 1048). IDENTITY THEFT PROTECTION ACT OF 2005. AN ACT ENACTING THE IDENTITY THEFT PROTECTION ACT OF 2005.** Summarized in *Daily Bulletin* 3/24/05, 5/23/05, 7/26/05, and 8/22/05. Enacted September 21, 2005. GS 75-62(a)(2)-(5), as enacted by Section 1, is effective October 1, 2006. GS 132-1.8(b)(6)-(9), as enacted by Section 4, is effective July 1, 2007. The remainder is effective December 1, 2005.