

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 629**

Short Title: Option to Freeze Credit Report. (Public)

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Wainwright, and Wiley.

Referred to: Finance.

March 15, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE ANY CONSUMER CREDIT REPORTING AGENCY TO,  
3 UPON THE WRITTEN REQUEST OF A CONSUMER, PLACE A SECURITY  
4 FREEZE THAT PROHIBITS THE AGENCY FROM PROVIDING A  
5 CONSUMER'S CREDIT REPORT TO A THIRD PARTY.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Chapter 25B of the General Statutes is amended by adding a  
8 new Article to read:

"Article 2.

"Security Freeze on Consumers' Credit Reports.

9  
10  
11 **§ 25B-10. Definitions.**

12 As used in this Article, the following definitions apply:

13 (1) 'Consumer credit file' means all of the information about a consumer  
14 that is recorded and retained by a consumer credit reporting agency  
15 regardless of how the information is stored.

16 (2) 'Consumer credit report' means a communication or other information  
17 by a consumer credit reporting agency relating to the creditworthiness,  
18 credit standing, credit capacity, debts, character, general reputation,  
19 personal characteristics, or mode of living of a consumer that is used  
20 or expected to be used or collected, wholly or partly, as a factor in  
21 establishing the consumer's eligibility for credit or insurance for  
22 personal, family, or household purposes, employment purposes, or  
23 other purpose authorized under section 603 and section 604 of the Fair  
24 Credit Reporting Act, 15 U.S.C. § 1681a and § 1681b, as amended.

25 The term does not include any of the following:

26 a. A report containing information solely on a transaction between  
27 the consumer and the person making the report.

- 1           b. An authorization or approval of a specific extension of credit  
2           directly or indirectly by the issuer of a credit card or similar  
3           device.
- 4           c. A report in which a person who has been requested by a third  
5           party to make a specific extension of credit directly or indirectly  
6           to a consumer makes a decision with respect to the request, if  
7           the third party advises the consumer of the name and address of  
8           the person to whom the request was made and the person makes  
9           the disclosures that must be made under section 615 of the Fair  
10           Credit Reporting Act, 15 U.S.C. § 1681m, as amended, to the  
11           consumer in the event of adverse action against the consumer.
- 12           d. Any communication of information described in this  
13           subdivision among persons related by common ownership or  
14           affiliated by corporate control.
- 15       (3) 'Consumer credit reporting agency' means a person that regularly  
16       engages wholly or partly in the practice of assembling or evaluating  
17       consumer credit information or other information on consumers in  
18       order to provide consumer credit reports to third parties for monetary  
19       fees, for dues, or on a cooperative nonprofit basis. Consumer credit  
20       reporting agency does not include a business entity that provides only  
21       check verification or check guarantee services.
- 22       (4) 'Proper identification' means information generally sufficient to  
23       identify a person.

24       **"§ 25B-20. Request and placement of security freeze.**

25       (a) A consumer may elect to place a security freeze on his or her consumer credit  
26       file by submitting to a consumer credit reporting agency a request in writing that is sent  
27       by certified mail and that includes proper identification of the consumer. Subject to  
28       G.S. 25B-50, upon receiving the consumer's request for a security freeze under this  
29       section, a consumer credit reporting agency shall place a notice in a consumer's credit  
30       file that indicates the file is subject to a security freeze. When a consumer credit file is  
31       subject to a security freeze, a consumer credit reporting agency shall not release  
32       information from that consumer's credit file and shall not provide a consumer credit  
33       report for that consumer to a third party, unless the agency receives prior express  
34       authorization under G.S. 25B-40 from the consumer. This section does not prevent a  
35       consumer credit reporting agency from advising a third party that a security freeze is in  
36       effect with respect to the consumer's credit file.

37       (b) A consumer credit reporting agency shall place a security freeze for a  
38       consumer no later than five business days after receiving the written request from the  
39       consumer. The consumer credit reporting agency shall, no later than 10 business days  
40       after receiving the written request from the consumer, also do all of the following:

- 41           (1) Send a written confirmation of the security freeze to the consumer.  
42           (2) Disclose in writing to the consumer the process of placing and  
43           removing the security freeze and the process for allowing access to  
44           information from the consumer's credit file or for providing a

1           consumer credit report for a specific requester or a specific period of  
2           time while the security freeze is in effect by temporarily lifting the  
3           security freeze under G.S. 25B-40(b).

4           (3) Provide the consumer with a unique personal identification number or  
5           password to be used by the consumer to authorize a removal or  
6           temporary lifting of the security freeze under G.S. 25B-40.

7           (c) Any consumer credit reporting agency shall honor a security freeze placed by  
8           any other consumer credit reporting agency.

9           (d) A consumer may request in writing a replacement personal identification  
10          number or password. The request must comply with the requirements for requesting a  
11          security freeze under subsection (a) of this section. The consumer reporting agency shall  
12          no later than the third business day after the date the agency receives the request for a  
13          replacement personal identification number or password provide the consumer with a  
14          new unique personal identification number or password to be used by the consumer  
15          instead of the number or password that was provided under subsection (b) of this  
16          section.

17          **"§ 25B-30. Notification of change.**

18          If a security freeze is in place, a consumer credit reporting agency shall notify the  
19          consumer in writing of a change in the consumer credit file to the consumer's name,  
20          date of birth, social security number, or address no later than 30 calendar days after the  
21          date the change is made. The agency shall send notification of a change of address to  
22          the new address and former address. This section does not require notice of an  
23          immaterial change, including a street abbreviation change or correction of a  
24          transposition of letters or misspelling of a word.

25          **"§ 25B-40. Removal or temporary lifting of security freeze.**

26          (a) On a request in writing and with proper identification provided by a  
27          consumer, including the consumer's personal identification number or password  
28          provided under G.S. 25B-20, a consumer credit reporting agency shall remove a  
29          security freeze no later than the third business day after the date the agency receives the  
30          request.

31          (b) On a request in writing and with proper identification provided by a  
32          consumer, including the consumer's personal identification number or password  
33          provided under G.S. 25B-20, a consumer credit reporting agency, shall, no later than the  
34          third business day after the date the agency receives the request, temporarily lift the  
35          security freeze for either or both of the following:

36                  (1) A certain properly designated period of time.

37                  (2) A certain properly identified third party.

38          (c) A consumer credit reporting agency may develop procedures involving the  
39          use of a telephone, a facsimile machine, the Internet, or another electronic medium to  
40          receive and process a request from a consumer under this section.

41          (d) A consumer credit reporting agency shall remove a security freeze when the  
42          security freeze was placed due to a material misrepresentation of fact by the consumer.  
43          The consumer credit reporting agency shall notify the consumer in writing before  
44          removing the security freeze under this subsection.

1 (e) A consumer credit reporting agency shall not charge a fee for a request under  
2 subsection (a) or (b) of this section.

3 **"§ 25B-50. Exemptions from security freeze.**

4 A consumer credit reporting agency may provide a consumer credit report to all of  
5 the following for any consumer credit file that is currently subject to a freeze under  
6 G.S. 25B-20:

- 7 (1) A State or local governmental entity, including a law enforcement  
8 agency or court or private collection agency, if the entity, agency, or  
9 court is acting under a court order, warrant, subpoena, or  
10 administrative subpoena.
- 11 (2) A child support agency acting to investigate or collect child support  
12 payments or acting under title IV-D of the Social Security Act, 42  
13 U.S.C. § 651, et seq., as amended.
- 14 (3) The Department of Health and Human Services acting to investigate  
15 fraud.
- 16 (4) The Department of Revenue acting to investigate or collect delinquent  
17 sales or franchise taxes.
- 18 (5) A tax assessor-collector acting to investigate or collect delinquent ad  
19 valorem taxes.
- 20 (6) A person for the purposes of prescreening as provided by the Fair  
21 Credit Reporting Act, 15 U.S.C. § 1681, et seq., as amended.
- 22 (7) A person with whom the consumer has an account or contract or to  
23 whom the consumer has issued a negotiable instrument, or the person's  
24 subsidiary, affiliate, agent, assignee, prospective assignee, or private  
25 collection agency, for purposes related to that account, contract, or  
26 instrument.
- 27 (8) A subsidiary, affiliate, agent, assignee, or prospective assignee of a  
28 person to whom access has been granted under G.S. 25B-40(b).
- 29 (9) A person who administers a credit file monitoring subscription service  
30 to which the consumer has subscribed.
- 31 (10) A check service or fraud prevention service company that issues  
32 consumer credit reports:
- 33 a. To prevent or investigate fraud; or
- 34 b. For purposes of approving or processing negotiable  
35 instruments, electronic funds transfers, or similar methods of  
36 payment.
- 37 (11) A deposit account information service company that issues consumer  
38 reports related to account closures caused by fraud, substantial  
39 overdrafts, automated teller machine abuses, or similar negative  
40 information regarding a consumer to an inquiring financial institution  
41 for use by the financial institution only in reviewing a consumer  
42 request for a deposit account with that institution.
- 43 (12) A consumer credit reporting agency that:

- 1           a.     Acts only to resell credit information by assembling and  
2                 merging information contained in a database of another  
3                 consumer credit reporting agency or multiple consumer credit  
4                 reporting agencies; and  
5           b.     Does not maintain a permanent database of credit information  
6                 from which new consumer credit reports are produced.

7     **"§ 25B-60. Charges for placing security freeze.**

8           A consumer credit reporting agency may impose a reasonable charge on a consumer  
9     for each placement of a security freeze. The amount of the charge shall not exceed ten  
10    dollars (\$10.00). A consumer credit reporting agency shall charge no such fee to any  
11    victim of identity fraud under Article 20 of Chapter 14 of the General Statutes who  
12    submits a valid police report.

13    **"§ 25B-70. Injunctive relief; civil penalty.**

14           (a) The Attorney General may file a suit against a person for either or both of the  
15    following:

- 16                 (1) Injunctive relief to prevent or restrain a violation of this Article.  
17                 (2) A civil penalty in an amount not to exceed two thousand five hundred  
18                 dollars (\$2,500) for each violation of this Article.

19           (b) If the Attorney General brings an action against a person under subsection (a)  
20    of this section, and an injunction is granted against the person or the person is found  
21    liable for a civil penalty, the Attorney General may recover reasonable expenses, court  
22    costs, investigative costs, and attorneys' fees.

23           (c) Each day a violation continues or occurs is a separate violation for purposes  
24    of imposing a penalty under this section.

25    **"§ 25B-80. Exemptions from Article.**

26           The provisions of this Article do not apply to any of the following entities:

- 27                 (1) A check service or fraud prevention service company that issues  
28                 consumer credit reports:  
29                         a. To prevent or investigate fraud, or  
30                         b. For purposes of approving or processing negotiable  
31                         instruments, electronic funds transfers, or similar methods of  
32                         payment.  
33                 (2) A deposit account information service company that issues consumer  
34                 credit reports related to account closures caused by fraud, substantial  
35                 overdrafts, automated teller machine abuses, or similar negative  
36                 information regarding a consumer to an inquiring financial institution  
37                 for use by only the financial institution in reviewing a consumer  
38                 request for a deposit account with that institution."

39     **SECTION 2.** This act becomes effective October 1, 2005.