

Regular Session, 2014

HOUSE BILL NO. 844

BY REPRESENTATIVE PONTI

BANKS/BANKING: Provides relative to security freezes

1 AN ACT

2 To enact R.S. 9:3571.3, relative to credit reports of protected persons; to provide for
3 prohibitions on the release of credit information of protected persons; to provide for
4 definitions; to provide for exceptions; to provide for damages; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:3571.3 is hereby enacted to read as follows:

8 §3571.3. Security freezes for protected persons.

9 A. In this Section, the following words have the meanings indicated:

10 (1) "Credit report" has the same meaning as in R.S. 9:3571.1.H(2).

11 (2) "Credit reporting agency" has the same meaning as in R.S.
12 9:3571.1.H(3).

13 (3) "Protected person" means an individual who is either of the following:

14 (a) Under the age of sixteen years at the time a request for the placement of
15 a security freeze is made.

16 (b) An interdicted person for whom a curator has been appointed, or an
17 incapacitated person or a protected person for whom a guardian or conservator has
18 been appointed.

19 (4) "Protected person security freeze" means:

20 (a) If a credit reporting agency does not have a credit report pertaining to a
21 protected person, a restriction that:

1 (i) Is placed on the protected person's record in accordance with this Section;

2 and

3 (ii) Prohibits the credit reporting agency from releasing the protected
4 person's record except as provided in this Section; or

5 (iii) Prohibits the credit reporting agency from releasing the protected
6 person's credit report or any information derived from the protected person's credit
7 report except as provided in this Section.

8 (5) "Record" means a compilation of information that meets all of the
9 following:

10 (a) Identifies a protected consumer.

11 (b) Is created by a credit reporting agency solely for the purpose of
12 complying with this Section.

13 (c) May not be created or used to consider the protected consumer's credit
14 worthiness, credit standing, credit capacity, character, general reputation, personal
15 characteristics, or mode of living

16 (6) "Representative" means a person who provides to a credit reporting
17 agency sufficient proof of authority to act on behalf of a protected person.

18 (7) "Sufficient proof of authority" means documentation that shows a
19 representative has authority to act on behalf of a protected person. "Sufficient proof
20 of authority" includes all of the following:

21 (a) An order issued by a court of law.

22 (b) A lawfully executed and valid Power of Attorney.

23 (c) A written, notarized statement signed by a representative that expressly
24 describes the authority of the representative to act on behalf of a protected person.

25 (8) "Sufficient proof of identification" means information or documentation
26 that identifies a protected person or a representative of a protected person. "Sufficient
27 proof of identification" includes all of the following:

28 (a) A social security number or a copy of a social security card issued by the
29 Social Security Administration.

1 **(b) A certified or official copy of a birth certificate issued by the entity**
2 **authorized to issue the birth certificate.**

3 **(c) A copy of a driver's license, an identification card issued by the office of**
4 **motor vehicles, or any other government-issued identification.**

5 **(d) A copy of a bill, including a bill for telephone, sewer, septic tank, water,**
6 **electric, oil, or natural gas services, that shows a name and home address.**

7 **B. This Section shall not apply to the use of a protected person's credit report**
8 **or record by:**

9 **(1) A person administering a credit report monitoring subscription service**
10 **to which:**

11 **(a) The protected person has subscribed.**

12 **(b) The representative of the protected person has subscribed on behalf of**
13 **the protected person.**

14 **(2) A person providing the protected person or the protected person's**
15 **representative with a copy of the protected person's credit report on request of the**
16 **protected person or the protected person's representative.**

17 **(3) An entity or purpose listed in R.S. 9:3571.1(L).**

18 **C. A credit reporting agency shall place a protected person security freeze**
19 **for a protected person if:**

20 **(1) The credit reporting agency receives a request from the protected**
21 **person's representative for the placement of the security freeze under this Section.**

22 **(2) The protected person's representative:**

23 **(a) Submits the request to the credit reporting agency at the address or other**
24 **point of contact and in the manner specified by the credit reporting agency.**

25 **(b) Provides to the credit reporting agency sufficient proof of identification**
26 **of the protected person and the representative.**

27 **(c) Provides to the credit reporting agency sufficient proof of authority to act**
28 **on behalf of the protected person.**

1 (d) Pays to the credit reporting agency a fee as provided in Subsection J of
2 this Section.

3 D. If a credit reporting agency does not have a credit report pertaining to a
4 protected person when the credit reporting agency receives a request under
5 Subsection C of this Section, the credit reporting agency shall create a record for the
6 protected person.

7 E. Within thirty days after receiving a request that meets the requirements
8 of Subsection C of this Section, a credit reporting agency shall place a protected
9 person security freeze.

10 F. Unless a protected person security freeze is removed in accordance with
11 Subsection H or K of this Section, a credit reporting agency may not release the
12 protected person's credit report, any information derived from the protected person's
13 credit report, or any record created for the protected person.

14 G. A protected person security freeze placed pursuant to Subsection E of this
15 Section shall remain in effect until either of the following:

16 (1) The protected person or the protected person's representative requests the
17 credit reporting agency to remove the protected person security freeze in accordance
18 with Subsection H of this Section.

19 (2) The protected person security freeze is removed in accordance with
20 Subsection K of this Section.

21 H. If a protected person or a protected person's representative wishes to
22 remove a protected person security freeze, the protected person or the protected
23 person's representative shall:

24 (1) Submit a request for the removal of the protected person security freeze
25 to the credit reporting agency at the address or other point of contact and in the
26 manner specified by the credit reporting agency.

27 (2) Provide to the credit reporting agency:

28 (a) In the case of a request by the protected person:

1 (i) Proof that the sufficient proof of authority for the protected person's
2 representative to act on behalf of the protected person is no longer valid, including
3 proof that the protected person has reached the age of majority or is no longer
4 incapacitated.

5 (ii) Sufficient proof of identification of the protected person.

6 (b) In the case of a request by the representative of a protected person.

7 (i) Sufficient proof of identification of the protected person and the
8 representative.

9 (ii) Sufficient proof of authority to act on behalf of the protected person.

10 (iii) Pay to the credit reporting agency a fee as provided in Subsection J of
11 this Section.

12 I. Within thirty days after receiving a request that meets the requirements of
13 Subsection H of this Section, the credit reporting agency shall remove the protected
14 person security freeze.

15 J.(1) Except as provided in Paragraph (2) of this Subsection, a credit
16 reporting agency may not charge a fee for any service performed pursuant to this
17 Section.

18 (2) A credit reporting agency may charge a reasonable fee, not exceeding ten
19 dollars, for each placement or removal of a protected person security freeze.

20 (3) Notwithstanding Paragraph (2) of this Subsection, a credit reporting
21 agency may not charge any fee pursuant to this Section if:

22 (a) The protected person's representative:

23 (i) Has obtained a report of alleged identity fraud against the protected
24 person.

25 (ii) Provides a copy of the report to the credit reporting agency.

26 (b) A request for the placement or removal of a protected person security
27 freeze is for a protected person who is under the age of sixteen years at the time of
28 the request and the credit reporting agency has a credit report pertaining to the
29 protected person.

1 K. A credit reporting agency may remove a protected person security freeze
2 or delete a record of a protected person if the protected person security freeze was
3 placed or the record was created based on a material misrepresentation of fact by the
4 protected person or the protected person's representative.

5 L. Any consumer damaged by an intentional or negligent violation of this
6 section may bring an action for and shall be entitled to recovery of actual damages,
7 plus reasonable attorney fees, court costs, and other reasonable costs of prosecution
8 of the suit.

9 Section 2. This Act shall take effect January 1, 2015.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ponti

HB No. 844

Abstract: Provides for security freezes for protected persons.

Proposed law provides for credit reporting agencies placing a security freezes on protected persons' credit reports.

Proposed law provides for definitions.

Proposed law provides that "protected person" shall mean an individual who is: (a) under the age of 16 years at the time a request for the placement of a security freeze is made; or (b) an interdicted person for whom a curator has been appointed, or an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

Proposed law provides for mechanisms on who and how a request can be made and how it can be removed.

Proposed law provides for damages for violation of proposed law.

Effective Jan. 1, 2015.

(Adds R.S. 9:3571.3)