

Regular Session, 2014

HOUSE BILL NO. 844

BY REPRESENTATIVE PONTI

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 either of the following:

20 (a) If a credit reporting agency does not have a credit report pertaining to a
21 protected person, a restriction that meets each of the following criteria:

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

1 (ii) Prohibits the credit reporting agency from releasing the protected
 2 person's record except as provided in this Section.

3 (b) If a credit reporting agency has a credit report pertaining to the protected
 4 person, a restriction that meets each of the following criteria:

5 (i) Is placed on the protected person's credit report in accordance with this
 6 Section.

7 (ii) Prohibits the credit reporting agency from releasing the protected
 8 person's credit report or any information derived from the protected person's credit
 9 report, except as provided in this Section.

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

12 (a) Identifies a protected consumer.

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

15 (c) Is not created or used to consider the protected consumer's credit
 16 worthiness, credit standing, credit capacity, character, general reputation, personal
 17 characteristics, or mode of living.

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

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

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

24 (b) A lawfully executed and valid power of attorney.

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

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

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

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

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

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

9 B. This Section shall not apply to the use of a protected person's credit report
10 or record by any of the following:

11 (1) A person administering a credit report monitoring subscription service
12 to which:

13 (a) The protected person has subscribed.

14 (b) The representative of the protected person has subscribed on behalf of
15 the protected person.

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

19 (3) An entity or person listed in R.S. 9:3571.1(L).

20 C. A credit reporting agency shall place a protected person security freeze
21 on the credit report of a protected person if the protected person's representative does
22 all of the following to request a protected person security freeze pursuant to this
23 Section:

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

27 (2) Provides to the credit reporting agency sufficient proof of identification
28 of the protected person and the representative.

29 (3) Provides to the credit reporting agency sufficient proof of authority to act
30 on behalf of the protected person.

1 (4) Pays to the credit reporting agency a fee as provided in Subsection I 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 for a protected
5 person security freeze under Subsection C of this Section, the credit reporting agency
6 shall create a record for the protected person.

7 E.(1) Within thirty days after receiving a request for a protected person
8 security freeze that meets the requirements of Subsection C of this Section, a credit
9 reporting agency shall place a protected person security freeze on the protected
10 person's credit report.

11 (2) A protected person security freeze placed pursuant to this Subsection
12 shall remain in effect until either of the following:

13 (a) The protected person or the protected person's representative requests the
14 credit reporting agency to remove the protected person security freeze in accordance
15 with Subsection G of this Section.

16 (b) The protected person security freeze is removed in accordance with
17 Subsection J of this Section.

18 F. Unless a protected person security freeze is removed in accordance with
19 Subsection G or J of this Section, a credit reporting agency may not release the
20 protected person's credit report, any information derived from the protected person's
21 credit report, or any record created for the protected person.

22 G. If a protected person or a protected person's representative wishes to
23 remove a protected person security freeze, the protected person or the protected
24 person's representative shall submit a request for the removal of the protected person
25 security freeze to the credit reporting agency at the address or other point of contact
26 in the manner specified by the credit reporting agency.

27 (1) In the case of a request by the protected person, the protected person shall
28 provide both of the following:

29 (a) Documentaton that the sufficient proof of authority for the protected
30 person's representative to act on behalf of the protected person is no longer valid,

1 including documentation that the protected person has reached the age of sixteen
 2 years or is no longer incapacitated.

3 (b) Sufficient proof of identification of the protected person.

4 (2) In the case of a request by the representative of a protected person, the
 5 representative of the protected person shall provide all of the following:

6 (a) Sufficient proof of identification of the protected person and the
 7 representative.

8 (b) Sufficient proof of authority to act on behalf of the protected person.

9 (c) Payment to the credit reporting agency a fee as provided in Subsection
 10 I of this Section.

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

14 I.(1) A credit reporting agency may charge a reasonable fee, not exceeding
 15 ten dollars, for each placement or removal of a protected person security freeze
 16 pursuant to this Section.

17 (2) Notwithstanding Paragraph (1) of this Subsection, a credit reporting
 18 agency may not charge any fee pursuant to this Section if either of the following
 19 apply:

20 (a) The protected person's representative does both of the following:

21 (i) Obtains a report of alleged identity fraud against the protected person.

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

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

27 J. A credit reporting agency may remove a protected person security freeze
 28 or delete a record of a protected person if the protected person security freeze was
 29 placed or the record was created based on a material misrepresentation of fact by the
 30 protected person or the protected person's representative.

1 K. Any consumer damaged by an intentional or negligent violation of this
 2 Section may bring an action for and shall be entitled to recovery of actual damages,
 3 plus reasonable attorney fees, court costs, and other reasonable costs of prosecution
 4 of the suit.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____