

**South Carolina Code of Laws**  
Title 37 – Consumer Protection Code  
Chapter 20 – Consumer Identity Theft Protection

**§ 37-20-110. Definitions.**

For purposes of this chapter:

(1) "Consumer" means an individual residing in the State of South Carolina who undertakes a transaction for personal, family, or household purposes.

(2) "Consumer credit-reporting agency" or "consumer reporting agency" means a person that, for monetary fees or dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information about consumers for the purpose of furnishing consumer reports to third parties.

(3) "Consumer report" or "credit report" means any written, oral, electronic, or other communication of information by a consumer credit-reporting agency regarding a consumer's creditworthiness, credit standing, credit capacity, character, debts, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for the purpose of establishing a consumer's eligibility for any of the following:

(a) credit or insurance to be used primarily for personal, family, or household purposes;

(b) employment purposes, meaning the use of a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee; or

(c) any other purpose authorized pursuant to *15 USC Section 1681b*.

"Consumer report" or "credit report" does not include a report containing information as to a transaction between the consumer and the person making the report; an authorization or approval by the issuer of a credit card or similar device, directly or indirectly, of a specific extension of credit; a communication of information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among those persons and the consumer has the opportunity, to direct that the information not be communicated among them, or a report in which a person conveys an adverse decision in response to a request from a third party to make a specific extension of credit, directly or indirectly, to the consumer, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the required disclosures to the consumer pursuant to the provisions of the federal "Fair Credit Reporting Act".

(4) "Credit card" has the same meaning as in Section 103 of the Truth in Lending Act, *15 USC Section 160* and includes a lender credit card, as defined in *Section 37-1-301(16)* and a seller credit card, as defined in *Section 37-1-301(26)*.

(5) "Creditworthiness" means an entry in a consumer's credit file that affects the ability of a consumer to obtain and retain credit, employment, business or professional licenses, investment opportunities, or insurance. Entries affecting creditworthiness include, but are not limited to, payment information, defaults, judgments, liens, bankruptcies, collections, records of arrest and indictments, and multiple credit inquiries.

(6) "Debit card" means a card or device issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account holding assets of the consumer at that financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

(7) "Disposal" means the:

(a) discarding or abandonment of records containing personal identifying information; or

(b) sale, donation, discarding, or transfer of any medium, including computer equipment or computer media, containing records of personal identifying information, other nonpaper media upon which records of personal identifying information are stored, or other equipment for nonpaper storage of information.

(8) "File" means all information on a consumer that is recorded and retained by a consumer credit-reporting agency, regardless of how the information is stored.

(9) "Financial identity fraud" and "identity fraud" are as defined in *Section 16-13-510* and include the term "identity theft".

(10) "Person" means a natural person, an individual, or an organization as defined in *Section 37-1-301(20)*.

(11)(a) For purposes of this chapter, "personal identifying information" means personal identifying information as defined in *Section 16-13-510(D)*.

(b) "Personal identifying information" does not mean information about vehicular accidents, driving violations, and driver's status.

(12) "Proper identification" means information generally considered sufficient to identify a person. If a person is reasonably unable to identify himself or herself with the information described in item (11), a consumer reporting agency may require additional information concerning the consumer's employment and personal or family history in order to verify the consumer's identity.

(13) "Publicly post" or "publicly display" means to exhibit in a place of public view.

(14) "Records" means material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

(15) "Security breach" means an incident of unauthorized access to and acquisition of records or data that was not rendered unusable through encryption, redaction, or other methods containing personal identifying information that compromises the security, confidentiality, or integrity of personal identifying information maintained by a person when illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to the consumer. Good faith acquisition of personal identifying information by an employee or agent of the person for a legitimate purpose is not a security breach, if the personal identifying information is not used for a purpose other than a lawful purpose of the person and is not subject to further unauthorized disclosure.

(16) "Security freeze" means a notice placed in a consumer credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit-reporting agency from releasing a credit report containing all or any part of the consumer's credit report or any information derived from it without the express authorization of the consumer.

**§ 37-20-160. Security freezes on consumer files; request for replacement personal identification number or password; consumer reporting agency duties and responsibilities; exceptions.**

(A) On written request sent by certified mail or electronic mail that includes proper identification provided by a consumer, the consumer's attorney-in-fact, or the consumer's legal guardian, if the consumer has not been a victim of identity theft or if the consumer has reason to believe that he is the victim of financial identity fraud, as evidenced by a copy of a valid police report, investigative report, or complaint made pursuant to *Section 16-13-510*, a consumer reporting agency shall place a security freeze on the consumer's consumer file not later than the fifth business day after the date the agency receives the request.

(B) On written request for a security freeze from a consumer pursuant to subsection (A), a consumer reporting agency shall disclose to the consumer the process of placing, removing, and temporarily lifting a se-

curity freeze and the process for allowing access to information from the consumer's consumer file for a specific requester or period while the security freeze is in effect.

(C) A consumer reporting agency, not later than the tenth business day after the date the agency receives the request for a security freeze shall:

(1) send a written confirmation of the security freeze to the consumer; and

(2) provide the consumer with a unique personal identification number or password to be used by the consumer to authorize a removal or temporary lifting of the security freeze.

(D) A consumer may request in writing a replacement personal identification number or password. The request must comply with the requirements for requesting a security freeze pursuant to subsection (A). The consumer reporting agency, not later than the third business day after the date the agency receives the request for a replacement personal identification number or password, shall provide the consumer with a new unique personal identification number or password to be used by the consumer instead of the number or password that was provided earlier.

(E) If a security freeze is in place, a consumer reporting agency shall notify the consumer in writing of a change in the consumer file to the consumer's name, date of birth, social security number, or address not later than thirty calendar days after the date the change is made. The agency shall send notification of a change of address to the new address and former address. This section does not require notice of an immaterial change, including a street abbreviation change or correction of a transposition of letters or misspelling of a word.

(F) A consumer reporting agency shall notify a person who requests a consumer report if a security freeze is in effect for the consumer file involved in that report and the consumer report may not be released without express authorization by the consumer.

(G)(1) On a request by a consumer electronically, in writing, or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password provided pursuant to subsection (C)(2), a consumer reporting agency shall remove a security freeze not later than the third business day after the date the agency receives the request at a point designated by the agency to receive the request.

(2)(a) On a request by a consumer electronically or by telephone and with proper identification provided by a consumer, including the consumer's personal identification number or password provided pursuant to subsection (C)(2), a consumer reporting agency, within fifteen minutes of receiving the request, shall lift the security freeze temporarily for a:

(i) certain properly designated period; or

(ii) certain properly identified requester.

(b) It is not a violation of this item if the consumer reporting agency is prevented from timely lifting the freeze by an act of God, a fire, a storm, an earthquake, an accident, or other event beyond the agency's control.

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

(I) A consumer reporting agency shall remove a security freeze placed on a consumer file if the security freeze was placed due to a material misrepresentation of fact by the consumer. The consumer reporting agency shall notify the consumer in writing before removing the security freeze pursuant to this subsection.

(J) A consumer reporting agency may not charge a fee for a freeze, removal of a freeze, temporary lifting of a freeze, or reinstatement of a freeze.

(K) A security freeze does not apply to the use of a consumer report provided to:

(1) a state or local governmental entity, including a law enforcement agency or court or private collection agency, if the entity, agency, or court is acting pursuant to a court order, warrant, subpoena, or administrative subpoena;

(2) a child support agency acting to investigate or collect child support payments or acting pursuant to Title IV-D of the Social Security Act (*42 USC Section 651 et seq.*);

(3) the Department of Social Services acting to investigate fraud;

(4) the Department of Revenue acting to administer state tax laws;

(5) a local official authorized to investigate or collect delinquent amounts owed to a public entity;

(6) a person for the purposes of prescreening as provided by the Fair Credit Reporting Act (*15 USC Section 1681 et seq.*), as amended;

(7) a person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the person's subsidiary, affiliate, agent, assignee, prospective assignee, subcontractor, or private collection agency, for purposes related to that account, contract, or instrument;

(8) a subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted pursuant to subsection (G)(2);

(9) a person who administers a credit file monitoring subscription service to which the consumer has subscribed;

(10) a person for the purpose of providing a consumer with a copy of the consumer's report on the consumer's request;

(11) a depository financial institution for checking, savings, and investment accounts;

(12) an insurance company for the purpose of conducting its ordinary business; or

(13) a consumer reporting agency that:

(a) acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(b) does not maintain a permanent database of credit information from which new consumer reports are produced.

(L) The requirement of this section to place a security freeze on a consumer file does not apply to:

(1) a check service or fraud prevention service company that issues consumer reports:

(a) to prevent or investigate fraud; or

(b) for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment;

(2) a deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution; or

(3) a consumer reporting agency's database or file that consists of information concerning, and used for, one or more of the following, but not for credit granting purposes:

(a) criminal record information;

- (b) fraud prevention or detection;
- (c) personal loss history information; and
- (d) employment, tenant, or individual background screening.

(M) A consumer reporting agency shall honor a security freeze placed on a consumer file by another consumer reporting agency.

(N) If a third party requests access to a consumer report on which a security freeze is in effect, this request is in connection with an application for credit or another use, and the consumer does not allow his credit report to be accessed, the third party may treat the application as incomplete. The presence of a security freeze on the file of a consumer must not be considered an adverse factor in the consumer's creditworthiness, credit standing, or credit capacity.

(O) The provisions of this section are cumulative, and an action taken pursuant to this section is not an election to take that action to the exclusion of other action authorized by law.

**§ 37-20-200. Penalties imposed on consumer credit-reporting agencies for violation of chapter.**

(A) In addition to all other penalties that may be imposed, a consumer credit-reporting agency or other person that wilfully violates a provision of this chapter is liable for three times the amount of actual damages or not more than one thousand dollars for each incident, whichever is greater, as well as reasonable attorney's fees and costs.

(B) In addition to all other penalties that may be imposed, a consumer credit-reporting agency or other person that negligently violates this chapter is liable for actual damages and reasonable attorney's fees and costs.

(C) In addition to the damages assessed pursuant to subsections (A) and (B), if the injury is to the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, employment options, or eligibility for insurance, and results from the failure to place and enforce the security freeze provided for in *Section 37-20-160* and the failure is not corrected by the consumer credit-reporting agency within ten days after the entry of a judgment for damages, the assessed damages must be increased to not more than one thousand dollars each day until the security freeze is imposed.

(D) A consumer seeking damages pursuant to this section also may institute a civil action to enjoin and restrain future acts constituting a violation of this chapter.

(E) The remedial provisions of this chapter are cumulative of and in addition to any other action at law and any action taken by the Department of Consumer Affairs pursuant to Chapter 6 of this title.

(F) This section is not intended, and must not be construed, to confer liability on a person who acts reasonably and who does not act wilfully or grossly negligent.

(G) Damages provided by this section do not apply to *Section 37-20-170*.