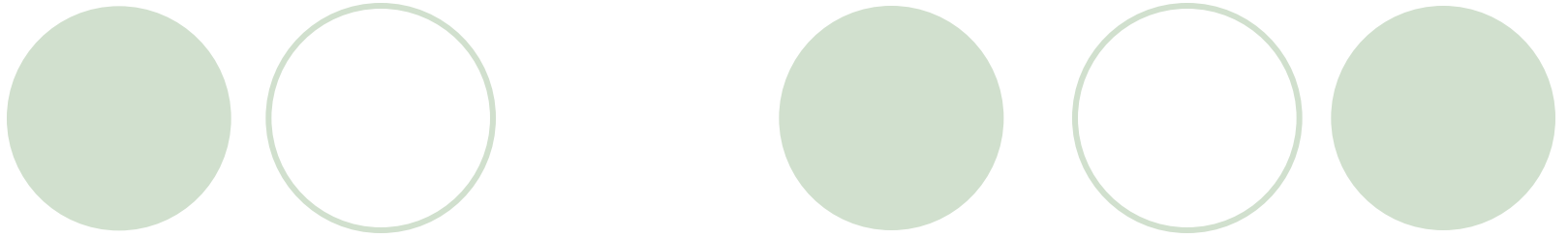


Financial Identity Fraud and Identity Theft Protection Act





This presentation is not meant to serve as a substitute for reading the various laws discussed, seeking legal counsel or otherwise requesting Department guidance and/or interpretations on the laws it administers and enforces. The presentation merely serves as an introduction subject.

We will cover:

- SCDCA Overview
- ID Theft Background
- FIFITPA
- Federal Requirements



Department Overview

- Consumer Services & Education
- Public Information
- Consumer Advocate
- Administration
- Legal Division



What is Identity Theft?

- Unlawful use of your personal information
 - Every 15 minutes, 200 people become victims of Identity Theft
-
- **FTC= \$50 billion losses annually**
 - **SC Stats: Consumer Sentinel**
 - 2008- 29th; 2007- 30th
 - 2006- 32nd ; 2005- 36th

How Does ID Theft Happen?

- You
- Friends and Family
- Lost or Stolen Wallets or Receipts
- Pre-approval Offers
- Dishonest Employees
 - **Skimming**
 - **Banks/ drs. office**
- Hoaxes
 - **Pretending to be Bank of America, etc & need personal info**
- Internet
 - **Phishing for personal information**





CONSUMER
SENTINEL NETWORK
DATA BOOK
for January - December 2009



Federal Trade Commission
February 2010



Identity Theft Complaints Count from South Carolina Victims = 3,070

Identity Theft Types Reported by South Carolina Victims

Rank	Identity Theft Type	Complaints	Percentage ¹
1	Government Documents or Benefits Fraud	505	16%
2	Phone or Utilities Fraud	480	16%
3	Credit Card Fraud	469	15%
4	Bank Fraud ²	364	12%
5	Employment-Related Fraud	260	8%
6	Loan Fraud	138	4%
	Other	766	25%
	Attempted Identity Theft	144	5%

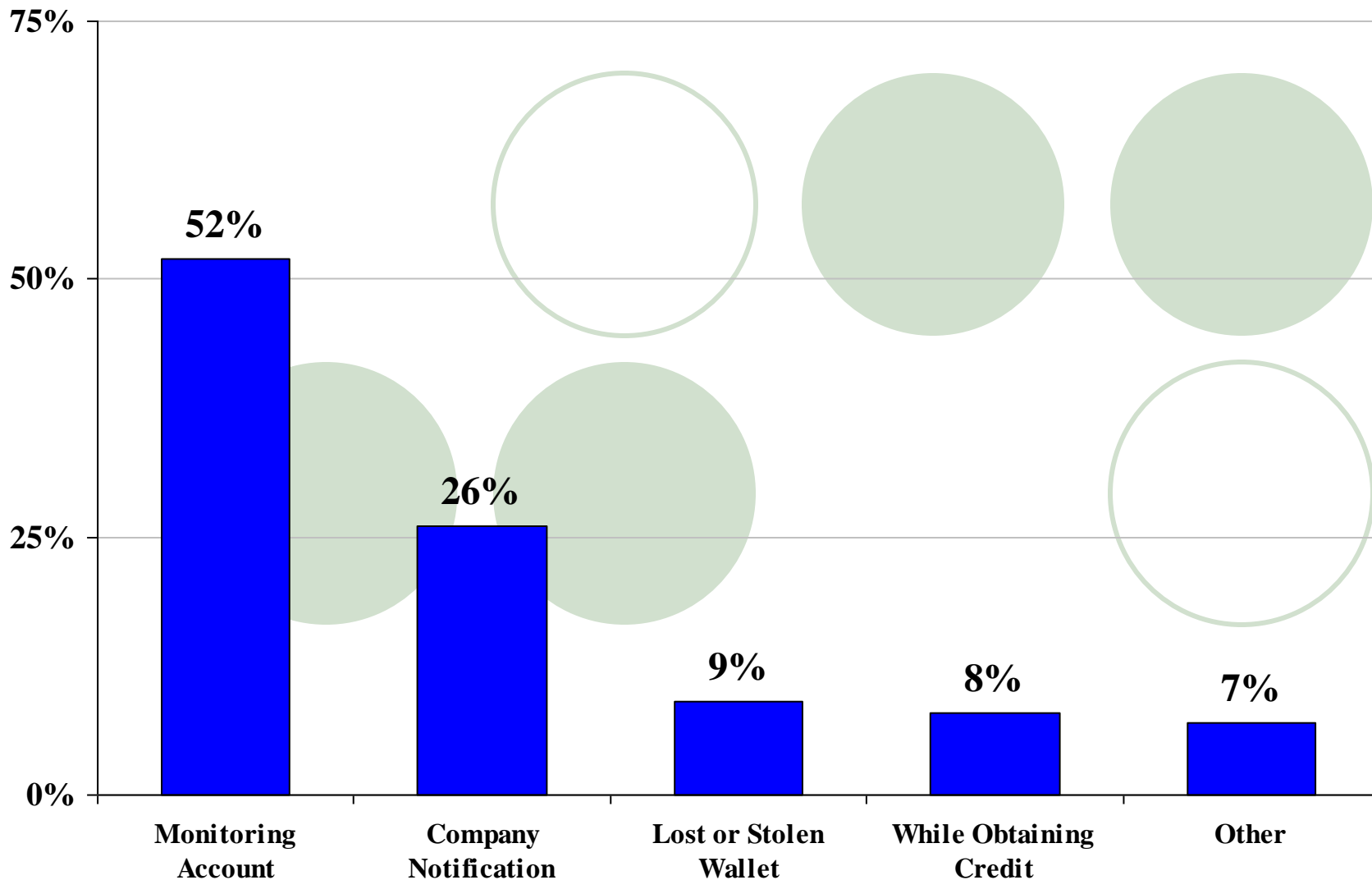
¹Percentages are based on the 3,070 victims reporting from South Carolina. Note that CSN identity theft complaints may be coded under multiple theft types.

²Includes fraud involving checking and savings accounts and electronic fund transfers.



Federal Trade Commission
September 2003

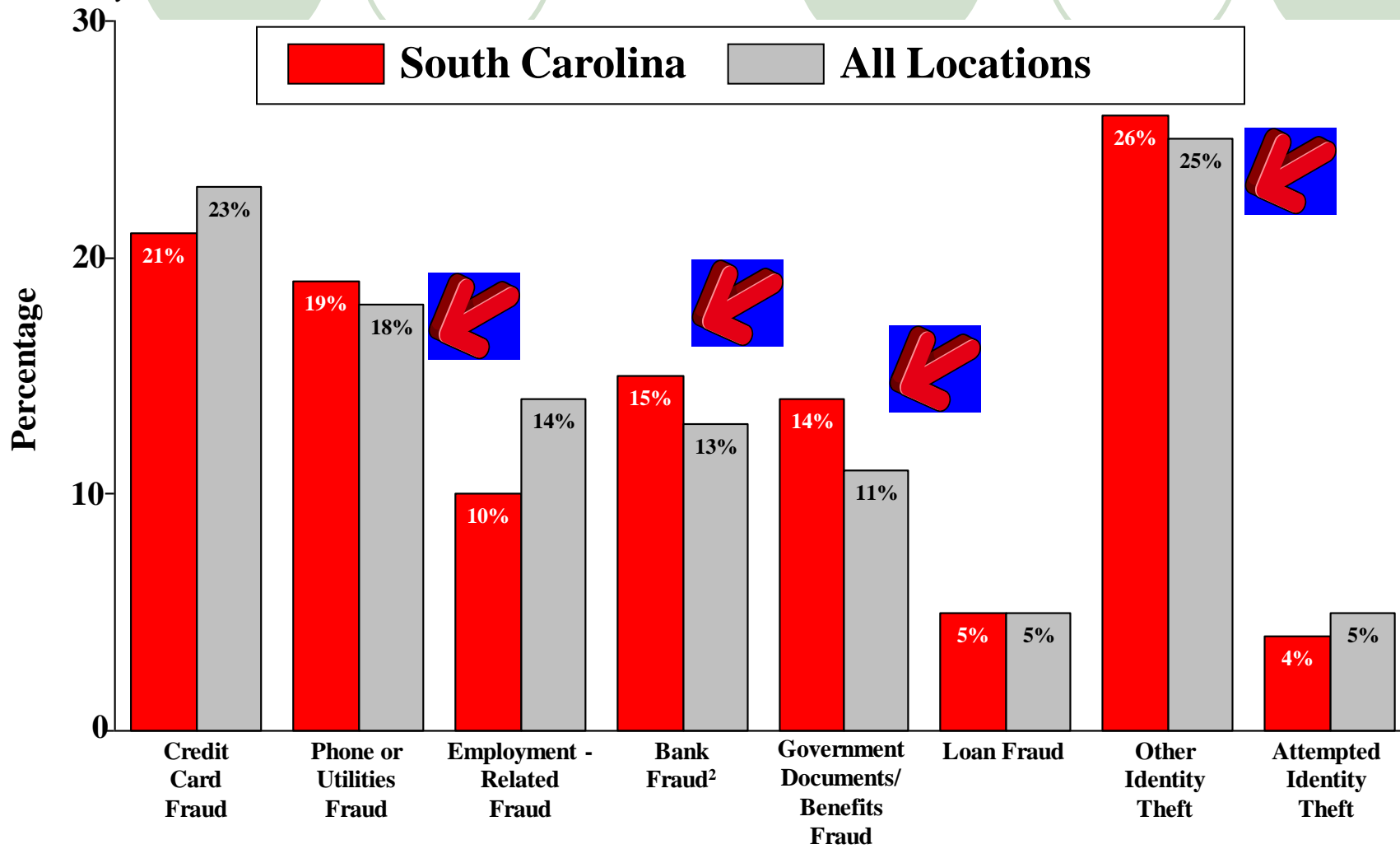
How Victims Discovered ID Theft¹



¹Source: Identity Theft Survey Report conducted by Synovate for the FTC (March-April 2003). Percentages based on respondents who indicated they had been the victim of identity theft within the past five years.

Figure 1 How Consumers' Information Is Misused¹

January 1 – December 31, 2007



²Includes fraud involving checking and savings accounts and electronic fund transfers.

Financial Identity Fraud and Identity Theft Protection Act

- Consumer Id Theft Protection
- Social Security Numbers
- Records Disposal
- Security Breach
- Other Protections

Consumer ID Theft Protection

Sections 37-20-110 et seq.

● Important Definitions

○ ***Consumer***

● Individual:

- Residing in SC
- Making a transaction for personal, family or household purpose

Consumer ID Theft Protection cont...

● Important Definitions cont...

○ ***Consumer Credit Reporting Agency (CRA)***

● Person

- who for \$\$ or dues
- Regularly assembles OR Evaluates
- consumer info
- for the purpose of giving consumer reports to 3rd parties

EQUIFAX

 TransUnion.

experian

Consumer ID Theft Protection cont...

● Important Definitions cont...

○ ***Consumer Report***

- Any communication of information by a CRA
- Concerning a consumer's:
 - Creditworthiness,
 - Credit standing
 - Etc.
- Is used or collected to establish eligibility for:
 - Credit or
 - Insurance or
 - Employment, etc

Consumer ID Theft Protection cont...

- Security Freeze~

- ***In General***

- **Freeze-** credit report cannot be accessed without consumer's permission
- Available to **ANYONE**
- Submit request to CRA
 - Certified letter or e-mail
- CRA must place within 5 days

Consumer ID Theft Protection cont...

- Security Freeze cont...

- ***Within 10 Days CRA Must:***

- Send consumer written confirmation of request and
- Provide a pin or password.
 - *Pin or password is needed to thaw or lift the freeze and may be requested by the reporting agency when you want to get your credit report*

Consumer ID Theft Protection cont...

○ ***While Freeze in Place CRA Must:***

- Notify consumer of personal info changes within 30 days
 - Ie: address, name, social security #
- Notify person requesting a report = frozen

Consumer ID Theft Protection cont...

- Security Freeze cont...

- **To Thaw** (temporarily remove freeze)

- Request via e-mail, fax, telephone, etc.
 - Can be for a specified time or creditor/ requestor
 - CRA must thaw within 15 minutes

- **To Lift**

- Request via e-mail, telephone, etc
 - CRA must remove within 3 days

Consumer ID Theft Protection cont...

- Security Freeze cont...

- It is ***FREE*** to:

- Place,
- Temporarily Lift OR
- Remove

A Security Freeze!!!



Consumer ID Theft Protection cont...

- **Points to Remember:**

- You must contact each of the 3 credit reporting agencies to request the freeze

Equifax

www.freeze.equifax.com

800-685-1111 or TDD 800-255-0056

P.O. Box 105788, Atlanta, GA 30348

Experian

www.experian.com/freeze

888-EXPERIAN (397-3742) or TDD 800-972-0322

P.O. Box 9554, Allen, TX 75013

TransUnion

<https://annualcreditreport.transunion.com/fa/securityFreeze/landing>

888-909-8872 or TDD 877-553-7803

P.O. Box 6790, Fullerton, CA 92834

Consumer ID Theft Protection cont...

● Points to Remember cont..:

○ Getting New Credit

- The freeze only affects the opening of new accounts, loans, etc.
- Before you apply for a new loan, credit, etc. you must thaw the freeze (either for the lender or for a specific time)

Consumer ID Theft Protection cont...

- Right to Dispute- *FIFITPA Mirrors FCRA Dispute Provisions*

- Fair Credit Reporting Act

- ***Consumer Can Dispute:***

- Inaccurate, incomplete or untimely items
- To credit reporting agency “CRA” and/or
- Furnisher (Creditor)

- ***Requirements:***

- CRA - Notify furnisher within 5 days
- CRA & Furnisher - Investigate (unless frivolous)
- CRA & Furnisher - Note File= in dispute
- If no resolution in 30 days, CRA must remove info

- ***Resolution***

- Notify consumer within 5 days
- 100 word dispute



Consumer ID Theft Protection cont...

- Reporting Periods - FCRA

- *Bankruptcy*

- 10 years

- *Civil Lawsuit or Judgment*

- 10 years

- *Paid Tax Lien*

- 7 years

- *Accounts Placed in Collection OR Charged Off*

- 7 years (clock begins 180 days after delinquency)

- *Other Adverse Info*

- 7 years



Consumer ID Theft Protection cont...

- Right to Dispute~ FIFITPA Additions

- **If CRA DENIES inaccuracy MUST:**

- Give basis;
- Send copy of file, including which creditors were contacts;
- Give evidence that info is accurate

- **If CRA ADMITS inaccuracy MUST:**

- Contact creditors/requestors from the last six months

Consumer ID Theft Protection cont...

- Right to Dispute cont...

- Private Cause of Action

- Department of Consumer Affairs to Enforce

- Complaints

- 1-800-922-1594

- www.sconsumer.gov “Complaint Services”

- Pattern or Practice

Social Security Numbers

Section 37-2-180/ 30-2-310

- Among other prohibitions, a public body or a business may not:
 - Make available to the public a person's social security number or six or more digits of the number;
 - Intentionally print or imbed a person's social security number or six or more digits of the number on a card required for access to a product or service;
 - **Require a person to transmit a social security number or six or more digits of the number over the internet UNLESS there is a (1) secure connection or (2) the number is encrypted.**

Social Security Numbers cont...

- **Require a person to use his/her social security number or six or more digits of the *number to access the web* unless a password is also required;**
- Print a person's social security number or six or more digits of the number **on materials mailed** to that person **UNLESS *state or federal law requires*** it;
- ***May not collect a person's social security number or six or more digits of the number UNLESS the body is (1) authorized by law or (2) the collection is imperative to the body performing its duties and responsibilities;***

Social Security Numbers cont...

- When collecting a person's social security number or six or more digits of the number, must separate the number from the rest of the record, ***or as otherwise appropriate, so the number can be easily redacted pursuant to a FOIA request,***
- At a person's request, ***must give a statement of purpose*** for collecting the person's social security number or six or more digits of the number and how it will be used.

Social Security Numbers cont...

- **Exceptions:**

- SS # is included in an application. (*Still cannot be on a postcard or visible on or thru an envelope.*)
- Opening of an account or payment for a product or service authorized by the consumer.
- Person providing the SS# to a governmental authority.

Records Disposal

● Definitions~ Effective 12-31-2008

○ ***Personal Identifying Information (PII)***

- Consumer's 1st name or 1st initial
- + last name
- +unencrypted or unredacted:
 - Social security #, or
 - Driver's License #, or
 - Financial account #, credit card, debit card + security code, or
 - Other #s or information to get access to financial accounts

Records Disposal cont...

● Definitions cont...

○ **Business**

- Person conducting business in this State

○ **Disposal**

- discarding records that contain *personal identifying information* OR
 - the sale, etc of anything containing
- 

Records Disposal cont...

- Disposal of Records~
 - **Hardware & Storage Media**
 - B4 transfer or disposal must:
 1. *Remove pers'l & confdt'l information*
 - **Record**
 - If PII involved, B4 disposal:
 1. *Shred, erase the PII to make unreadable or undecipherable*

Can hire a 3rd party to dispose of records= ok if compliant

Records Disposal cont...

- Penalties

- Civil Action

- Department

- Consumer

- 3x actual damages/ limit \$1,000 + attorneys fees

- Injunction

- Administrative Action

- Injunctions

- Fines

Security Breach~ Effective 7-1-2009

● Definitions~

○ **Security Breach**

- *Unauthorized access to AND*
- *Acquisition of:*
 - *Records/ data containing PII*
 - *Illegal use has or is likely to occur*

○ **Breach of the Security of the System**

- *Unauthorized access to AND*
- *Acquisition of:*
 - *Computerized data (where PII isn't encrypted, redacted, etc)*
 - *Illegal use has or is likely to occur*

Security Breach cont...

- **Applies to:**

- Persons conducting business in this State

- **Notification~Section 1-11-490**

- **To Consumer When:**

- Computerized or other data
- containing PII that was not encrypted or redacted
- Was, or is reasonably believed, to have been acquired by an unauthorized person
- When illegal use of the PII occurred, is likely to occur or material risk to person

Security Breach cont...

● Notification cont...~

○ **Must be Made:**

- Without delay

● BY:

- Written notice
- Electronic notice (if primary method)
- Telephone notice;
- Substitute Notice: \$250k or 500,000 persons
 - E-mail notice;
 - Webpage notice;
 - Notify statewide media

Security Breach cont...

Sample Security Breach Notification Letter

Date

Organization's Name and Address

Affected Person's Name and Address

Dear (Person's Name):

I am writing to inform you that our organization experienced *(or discovered)* **a security breach on or about** *(date of breach or when breach was discovered)*. **Unfortunately this has resulted in unauthorized access to your personal identifying information, specifically your** *(identify information that was or is reasonably believed to have been acquired)*.

(Organization Name) **is taking this matter very seriously and has** *(describe steps taken to prevent further harm or access to the person's personal identifying information and indicate whether or not law enforcement and/ or the Department of Consumer Affairs was notified of the breach)*. **If you have any questions about this notice, please contact** *(name of contact person)* at *(contact's telephone number)*. **You may also contact the South Carolina Department of Consumer Affairs at 1-800-922-1594 for information on steps you can take to defend yourself against identity theft.**

Sincerely,

Security Breach cont...



● Notification cont...~

○ **To the Department When:**

- > 1,000 persons affect @ 1 time
- Must also notify national consumer reporting agencies

○ **Notice Must Include:**

- Timing,
- Distribution, and
- Content of Notice

Mail To:

Legal Division

RE: Security Breach Notification

South Carolina Department of Consumer Affairs

P.O. Box 5757

Columbia, SC 29250

Security Breach cont...

- **Penalties:**

- Private Cause of Action

- Damages,
- Injunction, and
- Attorney's fees

- Administrative Fines

- Willful violation
- Up to \$1,000 per affected person

Other Protections



- Unlawful to “dumpster dive”
 - Misdemeanor
 - Felony (intentional)
- Creates crime of “Financial identity fraud”
 - Felony (intentional)
- Credit Card Receipts
 - *Mirrors Federal Law*
 - Business may only print 5 or less digits of a credit/debit card # on consumer’s receipts
 - (doesn’t apply to handheld/imprinting)

Other Protections cont...

● Credit Cards

- Businesses that mail offers to receive a seller or lender credit card must **verify a change of address** if the application returned states an address that is substantially different from the address on the offer.
- A seller/ lender credit card issuer is **prohibited from mailing out additional credit cards** to a new address if the card is requested within 30 days of the address change, unless the change of address is verified by the issuer.

- Blog
- Press Room
- Publications
- Consumer Education
- Related Links
- Recalls
- Videos

[Identity Theft](#)
[FIFITPA](#)

[Click to report Mortgage](#)
[Fraud](#)
[or Call](#)
[1-800-553-7723](#)



<u>Video Contest</u>	<u>Essay Contest</u>
Grades K-5	Grades 6-8

South Carolina consumers continue to report and be at risk for Economic recovery and Stimulus scams. ([More](#))

The Department of Consumer Affairs provides consumers a few important reminders about joining a fitness club in 2009. ([More](#))

Consumer Agency Issues Savvy Consumer "Commandments" for 2009
 When most New Year's resolutions are already falling by the wayside, the South Carolina Department of Consumer Affairs would like to see consumers adopt some good consumer practices for 2009. ([More](#))

SCDCA Announces Guidelines for 2009 Consumer Spirit Awards Program

The South Carolina Department of Consumer Affairs is now accepting nominations for the 2009 Consumer Spirit Awards. The Awards are presented annually to recognize individuals and organizations that empower South Carolinians through consumer protection and education initiatives. All individuals, organizations, and businesses are encouraged to participate. [Nomination forms](#) are available online. ([More](#))



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Breaking News

Licensing, Registrations
& Filings

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FAQs

IDENTITY THEFT INFORMATION

• Presentations

- Financial Identity Fraud and Identity Theft Protection Act ([PDF](#))
- Identity Theft & Data Security ([PDF](#))
- South Carolina's New Privacy Law ([PDF](#))
- Responding to Data Security Breaches ([PDF](#))
- Incident Response Security Breaches ([PDF](#))

• Handouts

- SCDCA- Identity Theft & The Law ([PDF](#))
- FTC Safeguards Rule ([PDF](#))
- FTC Information Compromise ([PDF](#))

• For Consumers

- FIFITPA Brochure ([PDF](#))

• Other Important Information

- [Financial Identity Fraud and Identity Theft Protection Act](#)
- OCC Guidelines ([PDF](#))
- FTC Disposal Rule ([PDF](#))
- DSIT Information Security Policy ([PDF](#))
- DSIT- Hardware Sanitization Policy ([PDF](#))
- DSIT Incident Management Policy ([PDF](#))

Federal Requirements



- Fair Credit Reporting Act (“FCRA”)
- Disposal Rule (*FCRA*)
- Financial Privacy Rule (*Gramm-Leach-Bliley Act (“GLB”)*)
- Safeguards Rule (*GLB*)
- Red Flags Rule (*FCRA – FACTA*)

Federal Requirements cont...

- History

- Original Eff. Date= 1971

- Amended at least 6 times since

- Most recent major~

- Fair and Accurate Credit Transactions Act of 2003 (FACTA)

- Purpose

- Promote accuracy & fairness in credit reporting arena

- Places requirements on:

- credit reporting agencies
 - Furnishers of information

- Provides consumer protections

Federal Requirements cont...

- FCRA – What is it?

- Accuracy and fairness in credit reporting (more later)

- Free annual credit reports

- Identity Theft Protections

- Fraud Alerts

- Blocking of Information

- Disposal Rule

- Red Flags Rule

Federal Requirements cont...

- Definitions: 15 U.S.C. 1681a

- *Consumer report:*

- Any communication of information by a credit reporting agency
- Contains info on a consumer's
 - *Credit worthiness*
 - *Credit standing*
 - *Character*
 - *General reputation*
 - *etc*
- Info is used or collected as a factor in deciding if a consumer is eligible for:
 - *Credit, insurance, employment, etc*

Federal Requirements cont...

- Definitions cont...: 15 U.S.C. 1681a

- *Consumer reporting agency:*

- Person
- Regularly engages in:
 - *assembling or evaluating consumer information, including credit information*
- For purpose of distributing *consumer reports* to 3rd parties
- Uses interstate commerce in preparation or distribution

Federal Requirements cont...

● ID Theft Protections:

○ Alerts~ 15 U.S.C. 1681c-1

● Fraud Alert

- Notice that = victim of ID Theft
- Once call, that's all
- Types

- Initial ~

- 90 days/ 1 free credit report from each
- No proof necessary

- Extended ~

- 7 years/ 2 free credit reports from each w/in 12 mths of placement
- File ID Theft Report/Affidavit

The logo for Equifax, featuring the word "EQUIFAX" in a bold, red, sans-serif font.The logo for TransUnion, featuring a stylized green and blue square icon to the left of the word "TransUnion" in a green, sans-serif font.The logo for Experian, featuring the word "experian" in a blue, lowercase, sans-serif font with a red diagonal line above the 'i'.

Federal Requirements cont...

- Fraud Alert cont...

- Effects
 - Business= Extra Steps
 - 5 year removal from pre-screened offers

- Active Duty Alert

- Active military consumer
- 1 year- can renew
- Effects
 - Business= Extra Steps
 - 2 year removal from pre-screened offers Removal from pre-screened offers

Federal Requirements cont...

- ID Theft Protections cont...:

- *Block ID Theft Info- 15 U.S.C. 1681c-2*

- Result of ID Theft
- Consumer provides:
 - Proof of id
 - Copy of id theft report
 - Id information
 - Statement that consumer didn't enter into the transaction reported
- CRA to notify furnisher of block

Federal Requirements cont...

- ID Theft Protections cont....:

- *Creditor Responsibilities- 15 U.S.C. § 1681g*

- Creditor must provide information regarding transactions victim of ID theft claims are related to ID Theft w/in 30 days of consumer request (FREE OF CHARGE)
- Consumer request=:
 - In writing;
 - Send proof of id;
 - Proof of id theft;
 - Date of transaction, if known;
 - Account number;

Federal Requirements cont...

● ID Theft Protections cont...:

○ Proactive Measures

● Free Annual Credit Report~ 15 U.S.C. § 1681g(a)

- 1 from each of CRAs every 12 mths
- www.annualcreditreport.com
- 877-322-8228

● Also get free report if:

- Denied Employment
- Denied Credit
- Unemployed, about to look for job



Federal Requirements cont...

○ Proactive Measures cont..

● Credit Card Truncation~ 15 U.S.C. § 1681c

- Shall not print:
 - >5 numbers of the card OR
 - Expiration date on any receipt

***Doesn't apply to handwritten or imprint/ card copy receipts*

● Rules

- Disposal Rule
- Red Flags Rule

Federal Requirements cont...

● Disposal Rule

○ Requires proper disposal of sensitive information derived from consumer reports.

● Who?

- Any person who uses a consumer report for business purposes, ie: lenders, insurers, employers, landlords, mortgage brokers and debt collectors.

● How?

- Burn, pulverize, shred
- Destroy or erase electronic data
- Due diligence in selecting and monitoring contractors.

Federal Requirements cont...

○ Red Flag Rule (FACTA)

- Requires financial institutions and creditors* to develop a written program that identifies and detects relevant warning signs (“Red Flags”) of Identity Theft.
- **Program must include** policies and procedures that enable a financial institution or creditor to:
 - Identify relevant patterns, practices, and specific forms of activity that are “red flags” signaling possible id theft;
 - Detect red flags that have been incorporated into the Program;
 - Respond appropriately to any red flags; and
 - Ensure the Program is updated periodically to reflect changes in risks from id theft.

Federal Requirements cont...

○ Red Flag Rule (FACTA)

● Who?

- state or national bank, S & L, Credit Union that holds a deposit account or an account where the consumer makes transfers,
- entity that regularly extends, renews, or continues credit. Includes finance companies, auto dealers, mortgage brokers, utility companies, and telecommunication companies.

● How?

- FTC, Banking Agencies, and NCUA have published Guidelines suggesting 26 possible red flags.



Examples

- Alerts or warnings from a consumer reporting agency.
- Suspicious documents.
- Suspicious personal identifying information.
- Unusual use of or activity in a covered account.
- Notices from customers, IDT victims, law enforcement or other businesses.

FCRA Cont...

- Penalties: 15 U.S.C 1681n&o

- ***Civil Liability***

- Willful,
- Knowing or
- Negligent noncompliance

- ***Administrative Enforcement: 15 U.S.C 1681s***

- *Federal Trade Commission*
 - Primary enforcer
- *State Action*
 - FTC 1st right to refuse

Federal Requirements cont...

- **Gramm-Leach-Bliley Act**

- **What is it?**

- opening up competition among banks, securities companies and insurance companies
- Privacy Protections

- **Financial Privacy Rule (Gramm-Leach-Bliley Act)**

- **Safeguards Rule (Gramm-Leach-Bliley Act)**

- Apply to **financial institutions***

***CAUTION~ Definition very BROAD**

Federal Requirements cont...

- **Financial Institutions:** all businesses, regardless of size, that are “significantly engaged” in providing financial products or services.
- Examples include:
 - auto dealers,
 - **mortgage brokers,**
 - **credit counselors,**
 - realtors,
 - tax preparers, &
 - courier services.

Federal Requirements cont...

- **Financial Privacy Rule (Gramm-Leach-Bliley Act)**

- protects a consumer's "nonpublic personal information" (NPI)

- *NPI Is:*

- *any "personally identifiable financial information" that a financial institution collects about an individual in connection with providing a financial product or service, unless that information is otherwise "publicly available."*

Federal Requirements cont...

- **Financial Privacy Rule (Gramm-Leach-Bliley Act) cont...**
 - All customers must be given a privacy notice. You must provide an "initial notice" by the time the customer relationship is established.
 - Notice Must Include description of:
 - how you collect, disclose, and protect NPI about consumers and customers, including former customers.
 - If you share NPI with nonaffiliated third parties, you also must give your customers opportunity to opt-out (exemption do apply)

Federal Requirements cont...

○ Safeguards Rule (Gramm-Leach-Bliley Act)

○ Requires **financial institutions*** to develop and implement safeguards to protect customer information.

○ Companies must:

- Develop a written information security plan
- Designate employee(s) to coordinate safeguards
- Identify and assess risks to customer information
- Design and implement a safeguards program (regularly monitor, test, and update it)
- Oversee service providers

Federal Requirements cont...

- **Safeguards Rule (Gramm-Leach-Bliley Act) cont...**
 - **Financial Institutions:** all businesses, regardless of size, that are “significantly engaged” in providing financial products or services.
 - **Examples include** auto dealers, **mortgage brokers**, realtors, tax preparers, & courier services.

Wrap Up

● Points to Remember:

○ If you believe you are a victim of ID Theft:

- Can place a **FREEZE** (State Law) on your report
- Can also place **FRAUD ALERT** (Federal Law) on your report
 - **Contact 1- they call the others**
 - **90 days- can extend to 7 years if victim & fill out ID Theft Report**
 - **Free reports (1 from each/ 2 from each)**
 - **Creditors must contact you b4 issuing credit**

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www.sconsumer.gov