



IDENTITY THEFT: BUSINESS PRACTICES & CONSUMER PROTECTIONS

Marti Phillips
Staff Attorney, SCDCA

This presentation is not meant to serve as a substitute for reading any Act, seeking legal counsel or otherwise requesting Department guidance and/or interpretations. The presentation merely serves as an introduction and overview.

Roadmap

- SCDCA Overview
- ID Theft
 - Overview
 - Consumer Sentinel
 - Statistics
- Security Breaches
- FIFITPA (SC law)
 - Other Protections
- Tips & Resources



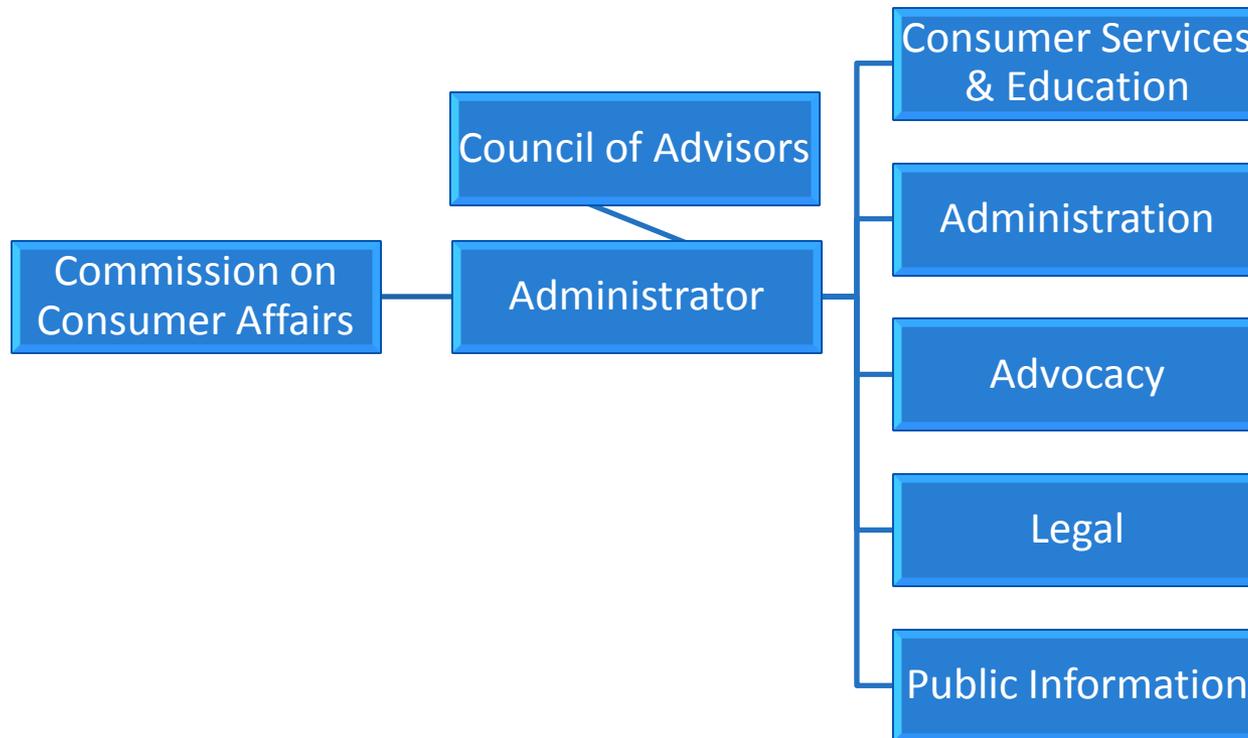
SCDCA Overview

- Organizational Structure
- Division Breakdowns
- Productivity (FY 09-12)



SCDCA Overview cont...

- *Organizational Structure*



SCDCA Overview cont...

- Created when the Consumer Protection Code was adopted in 1974, becoming effective January 1, 1975.
- The Department is headed by the Administrator:
 - The Administrator is hired/appointed by the Commission on Consumer Affairs. The Commission is made up of 9 members:
 - four appointed by the Governor,
 - four elected by the General Assembly, and
 - the Secretary of State
 - (Commission elects its own chair.)
- The Administrator also has a Council of Advisors from most areas of the creditor community to advise him on credit issues.
 - The members of the Council are appointed by the Governor, and
 - the Governor appoints the chair of the Council

SCDCA Overview cont...

- ***Consumer Services Division***

- The Consumer Services Division takes and attempts to resolve consumer complaints against businesses, with due regard for the rights of the business.
- The Services Division receives approximately 450 – 500 written complaints each month and approximately 8 times that many phone calls.
- The Division has consistently resolved about 85% of the complaints in a satisfactory manner.
- Vehicles & Debt Collection > consistently in top 3 complaint categories

SCDCA Overview cont...

- ***Administration Division***

- Provides support for the other Divisions including personnel, accounting, data processing and purchasing
- Processes regulatory filings for:
 - Maximum Rate—creditors charging in excess of 18%
 - Credit Grantor Notification—creditors grossing over \$150,000 annual
 - Motor Vehicle Dealer Closing Costs— Dealers charging a closing (“doc”) fee

SCDCA Overview cont...

- ***Consumer Advocacy Division***
 - Represents the public at large in intervening in insurance rate cases/ filings. Includes workers' compensation, auto, home, etc.
 - Administers & enforces the following regulatory programs:
 - Continuing Care Retirement Communities
 - Discount Medical Plan Organizations
 - Professional Employer Organizations

SCDCA Overview cont...

- ***Legal Division***

- The Legal Division helps the Administrator to administer and enforce the Consumer Protection Code and various other laws that have been assigned to the Department for Regulation.
 - Can investigate and bring enforcement actions, both administratively and in court, for violations of the Consumer Protection Code and various other laws.
 - 3 of Department's 4 investigators are commissioned law enforcement officers.

SCDCA Overview cont...

- ***Public Information Division***
 - Serves as the main consumer education portal for consumers, business and media.
 - Launched SCDCA-TV on YouTube and uses Twitter
 - Staff also makes presentations and sponsors webinars on ID Theft, debt collection, foreclosures, credit and other popular topics
 - The Division also answers hundreds of calls per month pertaining to consumer scams and laws and disseminates press releases and consumer education brochures.

SCDCA Overview cont...

- ***Over the last 3 fiscal years (09-12), SCDCA:***
 - SCDCA recovered approximately **\$7.1 million** for consumers in the form of refunds, credits and adjustments.
 - handled more than **16, 000 complaints**
 - processed **over 71,000 licensing/ registration applications** and filings for regulated businesses.

Over the last 5 fiscal years (07-12), SCDCA:

- Saved businesses and consumers approximately **\$164 million** as a result of involvement in workers' compensation insurance filings.

UP NEXT: ID Theft Overview

Identity Theft Background

- What is ID Theft?
- How Does ID Theft Happen?

What is Identity Theft?

Identity Theft is the unlawful use of personal information of someone else to pose as that person in order to:

- fraudulently obtain goods or services in the other person's name (the id theft victim) from private and/or public institutions

OR

- conceal their own true identity from authorities or others who perform background checks.

Identity Theft

- Existing Accounts:
 - According to FTC , about 75% of victims report that the thief misused only their existing accounts.
 - Credit card accounts are the most commonly misused *existing* account.
 - Done by skimming, theft of the cards, etc.

Identity Theft

- New Accounts:
 - 25% of victims report that thief opened new accounts or committed other types of fraud with the personal info.
 - Phone accounts, usually wireless: most common type of *new* account opened by identity thieves.
 - Thieves also open bank accounts, internet payment accounts, & auto, personal, student loan accounts.

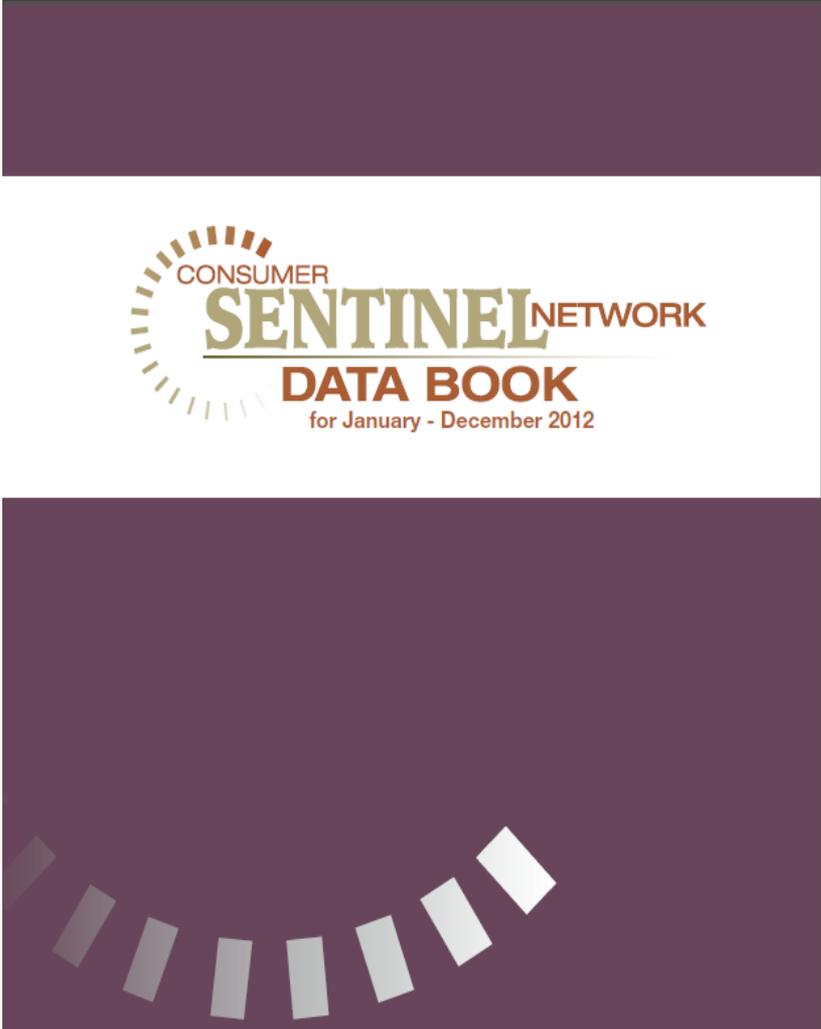
Synthetic Identity Theft

- Thief does not steal the victim's entire identity, but rather uses only the victim's Social Security number, in combination with another person's name and birth date, to create a new, fictitious identity.
- As a result, the victim may experience problems when the new identity tracks back to the victim's credit or tax records.
- Because this type of fraud may not be reflected on a consumer's credit report, it may not be discovered by the victim until many years later.

Scope of ID Theft Problem

- 9 million new victims annually
- Every 15 minutes, 200 people become victims of Identity Theft
- #1 complaint to (FTC) Consumer Sentinel in 2011 and 2012
- 18% Sentinel complaints were identity theft in 2012 (15% in 2011)
- \$50 BILLION in losses annually

2012 Consumer Sentinel Data Book



Consumer Sentinel: ID Theft Complaints – How Victims' Information is Misused

Calendar Years 2010 – 2012
(National)

Government Documents or Benefits Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Tax or Wage Related Fraud	15.6%	24.3%	43.4%
Government Benefits			
Applied For/Received	1.8%	1.5%	1.6%
Other Government Documents			
Issued/Forged	0.9%	0.8%	0.8%
Driver's License Issued/Forged	0.9%	0.8%	0.6%
Total	19.2%	27.4%	46.4%

Credit Card Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
New Accounts	9.1%	8.5%	8.8%
Existing Account	6.7%	5.8%	4.6%
Total	15.8%	14.3%	13.4%

Phone or Utilities Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Utilities - New Accounts	9.4%	8.8%	6.2%
Wireless - New Accounts	3.7%	3.1%	2.5%
Telephone - New Accounts	1.5%	1.0%	0.6%
Unauthorized Charges			
to Existing Accounts	0.5%	0.5%	0.4%
Total	15.1%	13.4%	9.7%

Bank Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Electronic Fund Transfer	4.8%	3.8%	3.0%
New Accounts	3.2%	2.6%	1.9%
Existing Accounts	2.8%	2.3%	1.5%
Total	10.8%	8.7%	6.4%

Employment-Related Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Employment-Related Fraud	11.2%	8.4%	5.4%

Loan Fraud

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Business / Personal / Student Loan	1.7%	1.4%	1.3%
Auto Loan / Lease	1.0%	0.9%	0.6%
Real Estate Loan	1.0%	0.8%	0.5%
Total	3.7%	3.1%	2.4%

Other Identity Theft

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Miscellaneous	7.6%	8.5%	7.5%
Uncertain	8.6%	8.2%	6.1%
Internet / Email	1.9%	1.6%	1.2%
Data Breach	-	1.7%	1.1%
Evading the Law	1.5%	1.2%	0.8%
Medical	1.3%	1.0%	0.7%
Apartment or House Rented	0.7%	0.7%	0.4%
Insurance	0.3%	0.3%	0.2%
Securities / Other Investments	0.1%	0.1%	0.1%
Property Rental Fraud	0.1%	0.1%	0.1%
Child Support	0.2%	0.1%	0.1%
Magazines	0.1%	0.1%	0.1%
Bankruptcy	0.1%	0.1%	0.1%
Total	22.5%	23.7%	18.5%

Attempted Identity Theft

Theft Subtype	Percentages		
	CY-2010	CY-2011	CY-2012
Attempted Identity Theft	7.0%	6.8%	6.6%

**Sentinel ID Theft Con't -
Calendar Years 2010 – 2012
(National)**

Consumer Sentinel Network State Complaint Rates

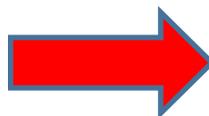
January 1 – December 31, 2012

Fraud & Other Complaints

Rank	Consumer State	Complaints Per 100,000 Population ¹	Complaints
1	Florida	693.5	133,973
2	Georgia	590.2	58,543
3	Maryland	564.2	33,199
4	Delaware	563.2	5,165
5	Nevada	559.9	15,446
6	Colorado	545.2	28,285
7	Virginia	517.4	42,355
8	Arizona	510.2	33,434
9	Michigan	500.9	49,501
10	New Hampshire	499.7	6,600
11	California	492.3	187,270
12	Washington	488.9	33,720
13	New Jersey	480.2	42,565
14	Oregon	471.8	18,399
15	Texas	458.6	119,510
16	Massachusetts	443.4	29,469
17	Connecticut	443.0	15,906
18	Pennsylvania	441.9	56,397
19	Tennessee	435.1	28,091
20	Ohio	434.2	50,128
21	Rhode Island	433.1	4,549
22	Hawaii	429.0	5,973
23	Missouri	427.2	25,725
24	North Carolina	422.6	41,212
25	New York	420.5	82,289
26	South Carolina	420.2	19,850
27	Idaho	419.4	6,693
28	New Mexico	416.0	8,675
29	North Dakota	403.9	2,826
30	Alabama	403.8	19,470
31	Louisiana	399.0	18,403

Identity Theft Complaints

Rank	Victim State	Complaints Per 100,000 Population ¹	Complaints
1	Florida	361.3	69,795
2	Georgia	193.9	19,232
3	California	122.7	46,658
4	Michigan	122.2	12,075
5	New York	110.1	21,538
6	Nevada	109.9	3,032
7	Texas	108.6	28,299
8	Arizona	107.3	7,032
9	Maryland	105.0	6,178
10	Alabama	104.9	5,060
11	Illinois	100.9	12,993
12	Mississippi	100.2	2,990
13	Delaware	98.4	902
14	New Jersey	95.1	8,430
15	Colorado	93.8	4,864
16	Rhode Island	91.7	963
17	South Carolina	90.6	4,282
18	New Mexico	89.1	1,858
19	Pennsylvania	88.7	11,324
20	Tennessee	88.1	5,690
21	Louisiana	87.6	4,031
22	Connecticut	81.2	2,915
23	North Carolina	81.1	7,910
24	Virginia	80.8	6,616
25	Washington	77.9	5,373
26	Ohio	77.0	8,891
27	Missouri	74.8	4,505
28	Arkansas	74.4	2,195
29	Massachusetts	73.4	4,879
30	Kansas	72.0	2,077



Consumer Sentinel – SC

- **SC Stats: Consumer Sentinel
(ID Theft Complaints)**

- **2012 – 17th**

- 2011 – 20th

- 2010- 29th

- 2009- 28th

- 2008- 29th

- 2007- 30th

- 2006- 32nd

- 2005- 36th



Consumer Sentinel – ID Theft

- **SOUTH CAROLINA**

Consumer Sentinel Network Complaint

**Total Number of Consumer Complaints
from SC = 24,132**

***Including Identity Theft Complaints from
South Carolina Victims = 4,282***

January 1 - December 31, 2012

Fraud and Other Complaints Count from South Carolina Consumers = 19,850

Top 10 Fraud and Other Complaint Categories Reported by South Carolina Consumers

Rank	Top Categories	Complaints	Percentage ¹
1	Debt Collection	2,808	14%
2	Banks and Lenders	1,621	8%
3	Shop-at-Home and Catalog Sales	1,391	7%
4	Auto Related Complaints	1,149	6%
5	Impostor Scams	1,107	6%
6	Telephone and Mobile Services	1,030	5%
7	Prizes, Sweepstakes and Lotteries	871	4%
8	Internet Services	814	4%
9	Foreign Money Offers and Counterfeit Check Scams	637	3%
10	Advance Payments for Credit Services	631	3%

¹Percentages are based on the total number of CSN fraud and other complaints from South Carolina consumers (19,850).

Note: These figures exclude complaints provided by the South Carolina Department of Consumer Affairs.

January 1 – December 31, 2012

Identity Theft Complaints Count from South Carolina Victims = 4,282

Identity Theft Types Reported by South Carolina Victims

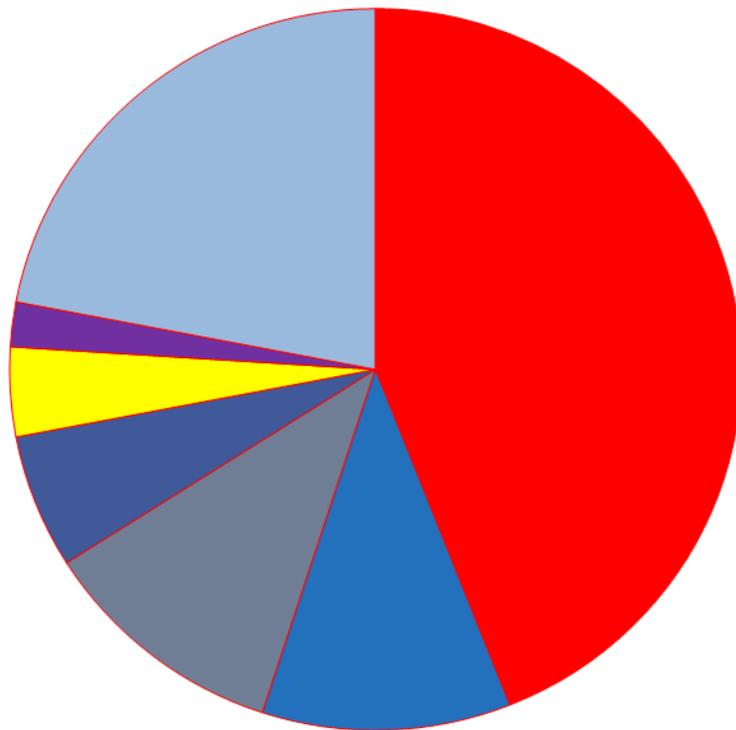
Rank	Identity Theft Type	Complaints	Percentage ¹
1	Government Documents or Benefits Fraud	1,879	44%
2	Credit Card Fraud	483	11%
3	Phone or Utilities Fraud	457	11%
4	Bank Fraud	250	6%
5	Employment-Related Fraud	165	4%
6	Loan Fraud	104	2%
	Other	962	22%
	Attempted Identity Theft	266	6%

¹Percentages are based on the 4,282 victims reporting from South Carolina. Note that CSN identity theft complaints may be coded under multiple theft types.

January 1 – December 31,
2012

How SC Victims' Information is Misused

Gov't benefits is most common form of id theft



- **Gov't Docs or Benefits Fraud 44%**
- **Credit Card Fraud 11%**
- **Phone or Utilities Fraud 11%**
- **Bank Fraud 6%**
- **Employment-Related Fraud 4%**
- **Loan Fraud 2%**
- **Other 22%**



January 1 – December 31, 2012

HOW? Old-fashioned identity theft

- You
- Friends and Family
- Lost or Stolen Wallets or Receipts 
- Pre-approval Offers
- Changing Your Address - divert billing statements to another location by completing a change of address form.
- Dishonest Employees 
 - Skimming; Banks/ drs. office
- Hoaxes
 - Pretending to be Bank of America, etc & need personal info
 - Wachovia-Wells Fargo – “verify accounts” 

HOW? *New, high-tech identity theft*

- Skimming
- Phishing
- Data breaches



Skimming

- The copying of electronically transmitted data on the magnetic strip of a credit card to enable valid electronic payment authorization to occur between a merchant and the issuing financial institution.
- They steal credit/debit card numbers by using a special storage device when processing your card.

Skimming cont...

- The equipment is available over the Internet and the software and hardware are very user friendly and extremely mobile
- The skimmed information can be transmitted via e-mail anywhere in the world within hours after it is skimmed
- Cardholders are not aware that they have been victimized until they receive statements showing the fraudulent charges

SKIMMING - electronic card strip readers



Cameras to view password entry



Keystroke Capturers



Card electronic strip readers

Phishing

- Sending authentic-looking but fraudulent e-mail designed to trick the respondent into giving out sensitive personal information
- Example: Pretending to be financial institution or legitimate company and send spam or pop-up messages to get you to reveal your personal information.

Phishing Example

UNION BANK/UNITED NATIONS SCAMMED VICTIMS COMPENSATION PAYMENTS

From: Mr David Johnson <skycarol55@yahoo.com>   Add to Contacts
To:

From: Mr David Johnson,
Phone:+234-708-451-2118
Email: mr.davidjohnson112@gmail.com

UNION BANK/UNITED NATIONS SCAMMED VICTIMS COMPENSATION PAYMENTS

REF/PAYMENTS CODE:04454 \$5 MILLION USD.

This is to bring to your notice that I am delegated from the United Nations to Union Bank Of Nigeria, one of the scammed victims, get back to me as soon as possible with a scanned copy of your international compensation funds.

On this faithful recommendations,I want you to know that during the last United Nations meeting, funds by various foreigners to the scams artists operating in syndicates all over the world today, operators \$5Million USD each,Due to the corrupt and inefficient banking systems in Nigeria, the Central Bank of Nigeria(C.B.N.).

Nigerian Email Scam

Phishing

- Sending authentic-looking but fraudulent e-mail designed to trick the respondent into giving out sensitive personal information

From: "Internal Revenue Service" <irs@gov.com>
Date: February 25, 2008 10:08:31 PM EST
Subject: **Tax Refund Notification**

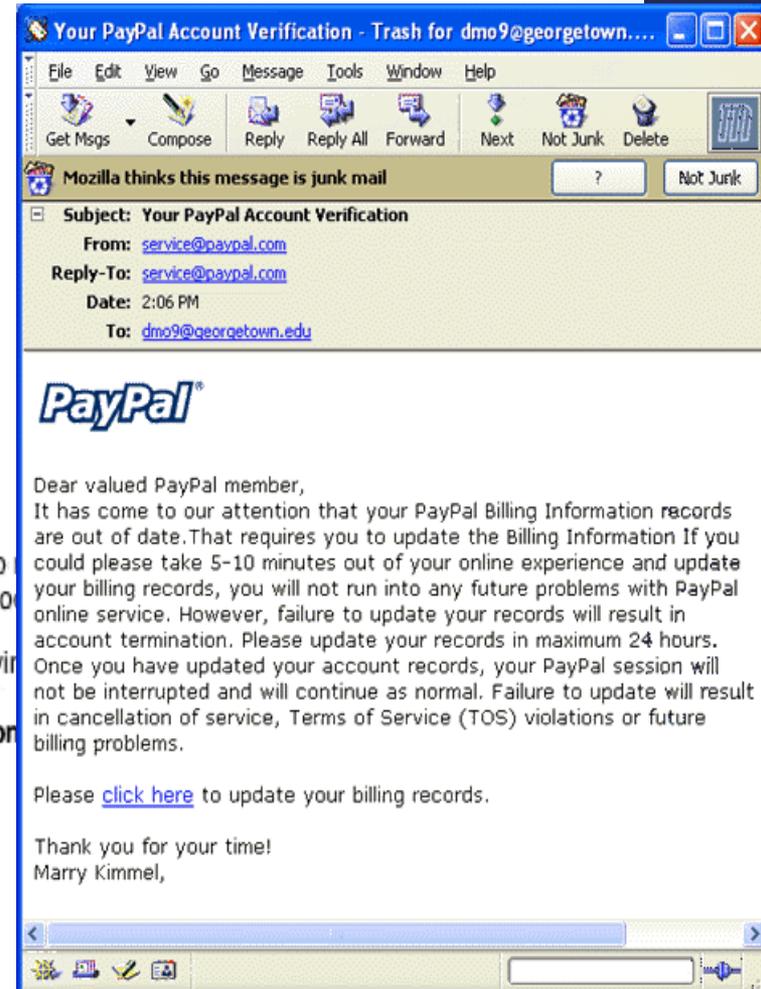


After the last annual calculations of your fiscal activity we have determined that you are eligible to tax refund of \$9950.55. Please submit the tax refund request and allow us 2-3 days in order to pro

A refund can be delayed for a variety of reasons. For example submitting invalid records or applying deadline. To access the form for your tax refund, please click [here](#)

Note: For security reasons, we will record your ip-address, the date and time. Deliberate wrong are criminally pursued and indicated.

Regards Internal Revenue Service.



More Phishing

- **“Spear phishing”** A spin on traditional phishing where scam artists have some inside information, such as the consumer’s name or knowledge of who the consumer does business with, which they use to seem more legitimate in their request for personal data.
- E-mails that appear to be from American Airlines. These ‘phishing’ e-mails use many different ploys to trick consumers into surrendering personal information or possibly subjecting their computers to a virus. E-mails SCDCA has received from consumers claim to have an e-ticket attached or that the consumer needs to change an account password.

UP NEXT: Security Breaches

Data Security Breaches

- Breaking/hacking into computer systems
 - Intruders need find only the weakest link:
 - Vulnerable system
 - Unsecured network
 - Disgruntled or corrupt insider – Once inside, often free to search and steal data
- Notification to SCDCA
- Recent SCDOR Breach



Data Security Breaches

- **Notification to DCA & CRAs** *(more info later)*
 - **When:**
 - Provide notice to > 1,000 persons at 1 time
 - without unreasonable delay notify
 - Consumer Protection Division of the Department of Consumer Affairs and
 - all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined in 15 USC Section 1681a(p)
 - **Notice Must Include:**
 - Timing,
 - Distribution, and
 - Content of Notice



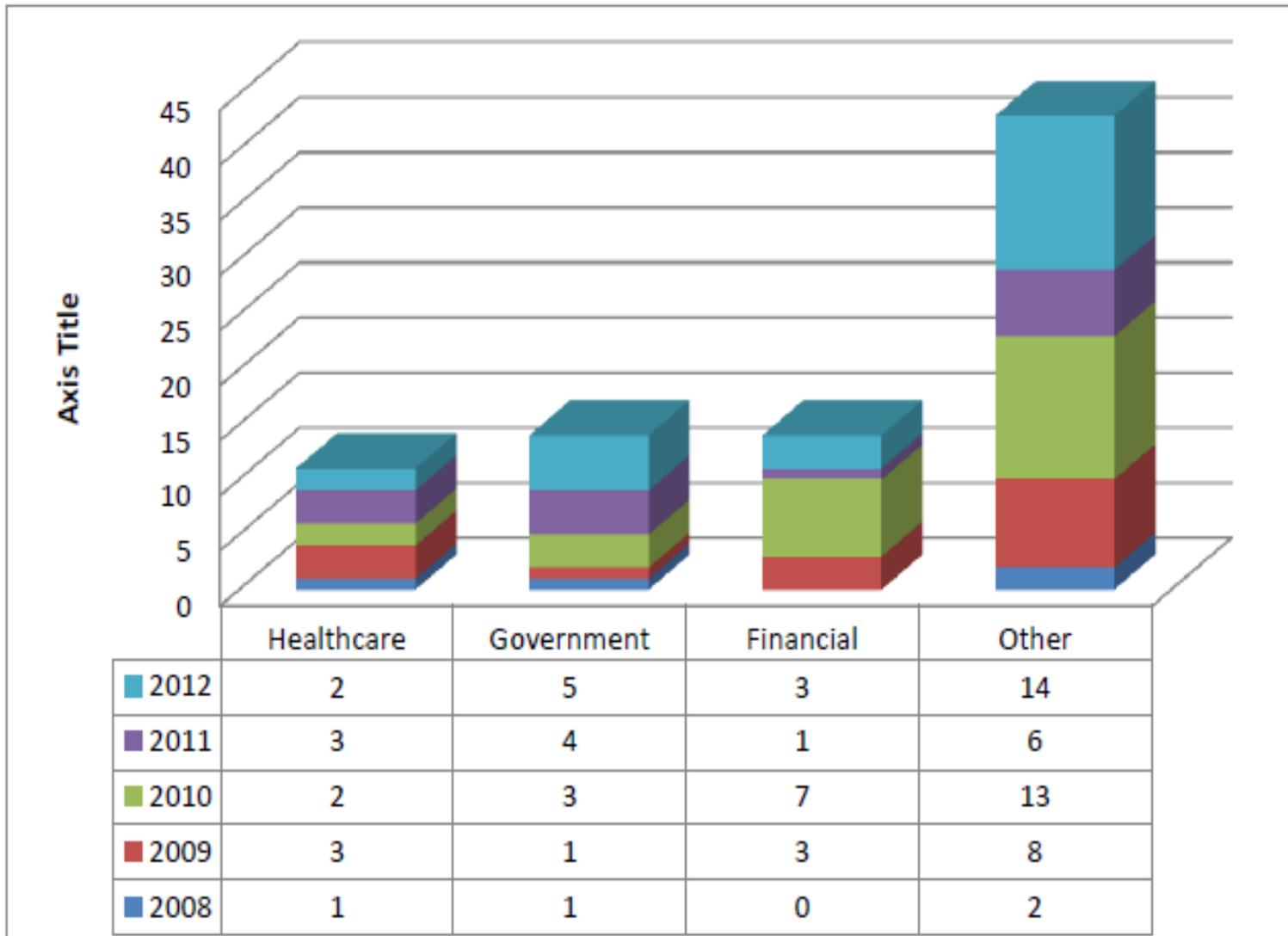
Security Breaches cont...

- Notification letters sent to SCDCA by companies and governmental entities reporting security breaches from July 2008 - July 2012. (Eff. 7/1/09)
- Many companies did not report a specific number of consumers affected. Therefore, the totals provided reflect the minimum number of South Carolina residents potentially affected.

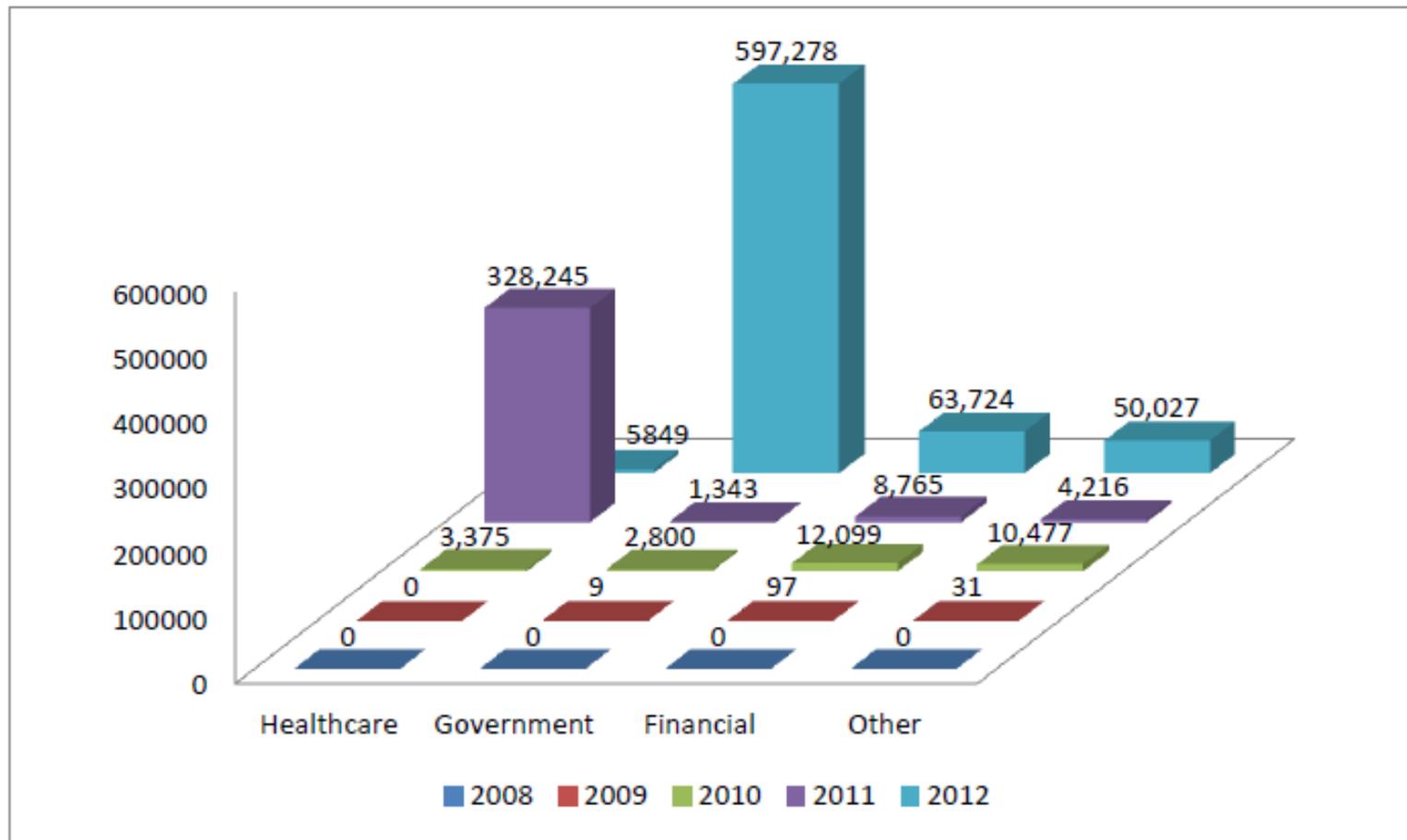
Security Breaches cont...

- **During the designated time period, the Department received:**
 - 83 security breach notices affecting 1,088,000 South Carolina residents.
- **Top Categories:**
 - healthcare organizations,
 - governmental entities, and
 - financial service providers

Number of Security Breach Notices Received by Industry



Number of South Carolina Residents Affected by Security Breaches



SC Dept. of Revenue (DOR) Breach

- **TIMELINE**

- Hacked early/mid-September;
- DOR notified October 10th;
- Notified public October 26th



- **How?**

- Phishing e-mail from hacker (August).
- At least one user clicked on the embedded link. Malware likely stole the user's username and password.

DOR Breach cont...

- **BY THE NUMBERS:**
 - SSNs
 - 3.8 million taxpayers
 - 1.7 million dependents
 - Banking Account Numbers
 - 3.8 million
 - Credit & Debit Card Numbers
 - 387,000
 - Business Tax Filings
 - 657,000

DOR Breach cont...

- **NOTICES**

- Began sending notices to affected individuals December 24th.
- Sent approximately 100,000 per day.



DOR Breach cont...

- **FREE SERVICES OFFERED BY DOR**

- Consumers

- Experian's ProtectMyID™ Alert
- Family Secure

free for 1 year from enrollment

- Businesses

- Dun & Bradstreet Credit Alert
- Experian's Business Credit AdvantageSM

SC Dept. of Revenue (SCDOR) Breach

- **FREE SERVICE OFFERED BY SCDOR**

- Experian's ProtectMyID™ Alert & Family Secure ***free for 1 year from enrollment***

- › *Credit Report* A free copy of your Experian credit report.
- › *Daily 3 Bureau Credit Monitoring* Alerts you of suspicious activity including new inquiries, newly opened accounts, delinquencies or medical collections found on your Experian, Equifax® and TransUnion® credit reports.
- › *Identity Theft Resolution* If you have been a victim of identity theft, you will be assigned a dedicated, U.S.-based Experian Identity Theft Resolution Agent who will walk you through the fraud resolution process, from start to finish, which will continue for an unlimited period of time.
- › *ExtendCARE* Full access to the same personalized assistance from a highly-trained Fraud Resolution Agent even after your initial ProtectMyID membership expires.
- › *\$1 Million Identity Theft Insurance* As a ProtectMyID member, you are immediately covered by a \$1 Million insurance policy that can help you cover certain costs including lost wages, private investigator fees and unauthorized electronic fund transfers.

SC Dept. of Revenue (SCDOR) Breach

- **FAMILY SECURE**

- Monitoring of dependent social security numbers
- First have to enroll self in ProtectMyID, then will receive notice to enroll in Family Secure

- **DEADLINES FOR ENROLLMENT:**

ProtectMyID - *MARCH 31, 2013*

& Family Secure - *MAY 31, 2013*

DOR Breach cont...

- **DUN & BRADSTREET**

- This product will alert customers to changes taking place in their D&B® business credit file.
- Even something as simple as a change to a business address or a company officer would set off an alert to the business owner.
- Register @ www.DandB.com/SC or call 800-279-9881

- **EXPERIAN BUSINESS ADVANTAGE**

- Unlimited access to business credit report Experian has on the company for one-year.
- It also includes notifications via email alerts.
- Register @ www.SmartBusinessReports.com/SouthCarolina
 - **DEADLINE → MARCH 31, 2013**

DOR Breach cont...

- **WANT MORE INFORMATION?**

WWW.CONSUMER.SC.GOV

SC.GOV Online Services Agency Listing Search consumer.sc.gov Search

SC Department of Consumer Affairs SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS

QUICK LINKS ▶ HOME CONTACT US FILE A COMPLAINT LICENSEE LOOKUP Font Size: A + A - Reset

ABOUT US Home

CONSUMER INFORMATION

BUSINESS/INDUSTRY INFORMATION

NEWS RELEASES & PUBLICATIONS

LEGAL

PRIVACY STATEMENT

Welcome

The South Carolina Department of Consumer Affairs ("DCA"/ "Department") is the state's consumer protection agency. Established in 1974, DCA has more than thirty-five years of experience in protecting South Carolina consumers while recognizing those businesses that act honestly and fairly.

The Department accomplishes its mission by: 1.) acting as an effective regulator, 2.) providing complaint mediation services that are unmatched at both state and federal levels, 3.) saving millions for both consumers and small businesses through insurance rate filing intervention, and 4.) serving as an educational portal for consumers and businesses alike.

[Click here to learn more about the agency](#)

Helpful Links

IDENTITY THEFT RESOURCES

[Dept. of Revenue Security Breach](#)

[Credit Card Repayment Calculator](#)

DOR Breach cont...



IMPORTANT: Due to the recent security breach, it is important to note that the SC Department of Revenue would not initiate contact by phone with any individual and ask for personal identifying information. Please be aware of potential scams and should you receive such a call, please hang up and call us directly at (803) 898-5000.

SC Department of Revenue Cyber Attack

Approximately 3.8 million Social Security numbers, 387,000 credit and debit card numbers and 657,000 business tax filings were exposed in a recent cyber-attack at the SC Department of Revenue.

[SCDOR Security Breach – Frequently Asked Questions](#) - November 2, 2012

[SCDOR Security Breach – Additional Frequently Asked Questions](#) - November 13, 2012

[SCDOR Security Breach - Family Secure FAQs](#) - December 10, 2012

Anyone who has filed a South Carolina tax return since 1998 is urged to sign up for the identity theft protection offered by the state:

Individuals

- Experian's ProtectMyID™ Alert is designed to detect, protect and resolve potential identity theft, and includes daily monitoring of all three credit bureaus. The alerts and daily monitoring services are provided for one year, and consumers will continue to have access to fraud resolution agents and services beyond the first year.

**AN URGENT MESSAGE FOR ALL
SOUTH CAROLINA RESIDENTS TO
PROTECT AGAINST IDENTITY
THEFT**

**Please click for further
information.**

Taxes and Licenses:

Alcohol Beverage Licensing

Bingo

Business Registration Forms

Corporate

Estate Tax

Fiduciary

Individual Income

Miscellaneous

Motor Fuel

Partnership

Property

Sales and Use

Tax Credits

Withholding

Other Taxes

Nexus Filing Requirements

Voluntary Disclosure Program

P & I Calculator

Law and Policy:

S.C. Codes

Minimizing Effects of a Breach

- **OTHER WAYS TO MINIMIZE THE EFFECT OF THE BREACH**
 - *Step One:*
 - Fraud Alert (*different from security freeze*)
 - 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 before issuing credit
 - Federal Law



Minimizing Effects of a Breach cont...



- **Step Two:**

- Consider a Security Freeze

- **Freeze**- credit report cannot be accessed without consumer's permission
- Available to **ANYONE**
- It's FREE
- Must call each of the credit agencies to place- get PIN
- Can "thaw" when wanting new products or services (15 minutes)
- State law

<https://www.freeze.equifax.com>

www.experian.com/freeze

<http://freeze.transunion.com>

Minimizing Effects of a Breach cont...

The phone numbers are the same to place a fraud alert and to place a security freeze on your credit report (but can't place @ same time):*

Equifax: 800-685-1111

TransUnion: 800-680-7289

Experian: 888-397-3742



**Automated System*



Fraud Alert vs. Security Freeze

- One call
- Creditors must take “reasonable steps” to verify identity
- Less effective
- 90 days (renewable) or 7 years (if victim & fill out ID Theft Report)
 - free credit report(s)
- FREE
- Federal law
- Notify **each** bureau to place/get PIN
- Credit report cannot be accessed w/out consumer’s permission
- More effective - PREVENTITIVE
- Effective until removed
- **FREE (SC law)**

Minimizing Effects of a Breach cont...

- ***Step Three:***

- Track Your Finances

- Always review your banking statements as soon as you receive them.
- Review your credit report(s) regularly.
 - You are entitled to a free credit report from each one of the three major credit reporting agencies annually.
 - www.annualcreditreport.com or calling 877-322-8228.
- Check your statements and credit report for unauthorized purchases/accounts and incorrect information.

Security Breach cont...

- **BUSINESS IMPACT**

- Do you require access to a consumer's credit report before approving them for your products or services?
- Tracking your business statements, credit score and credit report.
- Have/ update security policies and train staff regularly.
- Let your customers know how you protect their information.

UP NEXT: FIFITPA

Financial Identity Fraud and Identity Theft Protection Act

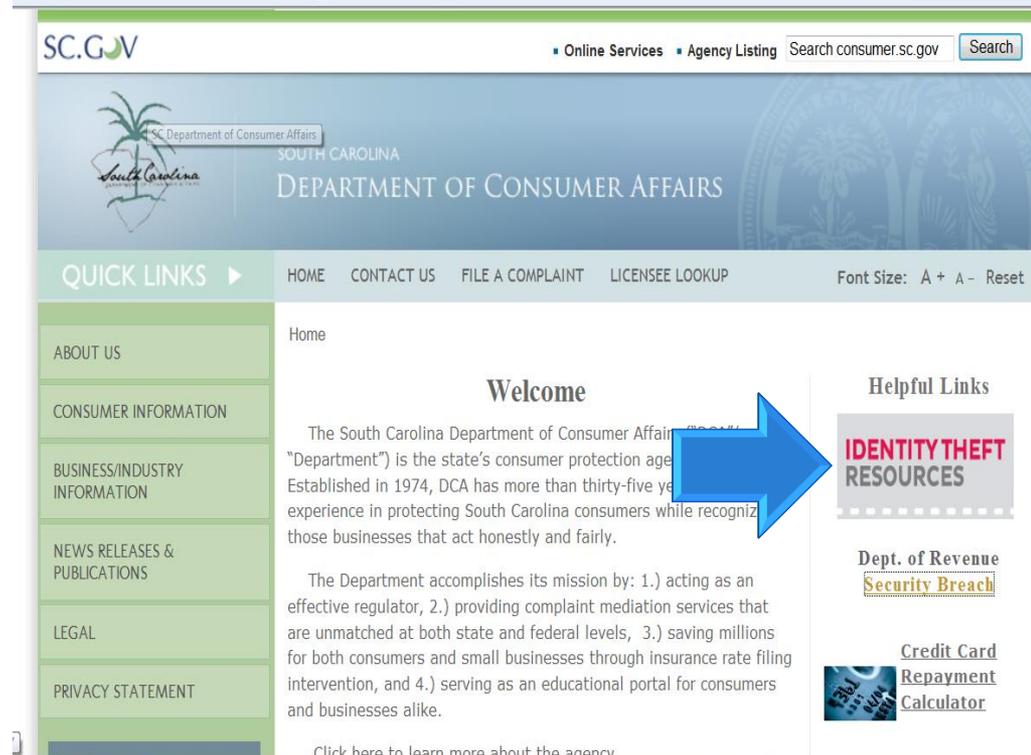
- Legislative Background
- Social Security Numbers
- Records Disposal
- Security Breach
 - Notification Requirement
- Consumer Protections:
 - Security Freeze
 - Right to Dispute
 - Other Protections



Legislative Background

- Bills
- Comprehensive Result=
S. 453, Act 190- 2008
 - Amends several different Code Sections

www.consumer.sc.gov



- Effective Dates
 - *December 31, 2008 & July 1, 2009 (Security Breach Portion)*

Social Security Numbers



- **Among other prohibitions, a person may not:**

- Intentionally communicate or otherwise make available to the general public a person's social security number or six or more digits of the number ***or other personal identifying information***;
- 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.**
- **Require a person to use his/her social security number or six or more digits of the number to access a website unless a password/PIN 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;

SSNs cont...



- **Exemptions Include:**

- the collection, use, or release of a social security number for internal verification or administrative purposes;
- opening of an account or the provision of or payment for a product or service authorized by a consumer;
- to a person acting pursuant to a court order, warrant, subpoena, or other legal process;
- to a person providing the social security number to a federal, state, or local government entity, including a law enforcement agency or court, or their agents or assigns

UP NEXT: Records Disposal

Records Disposal

Section 16- 13-510(D)

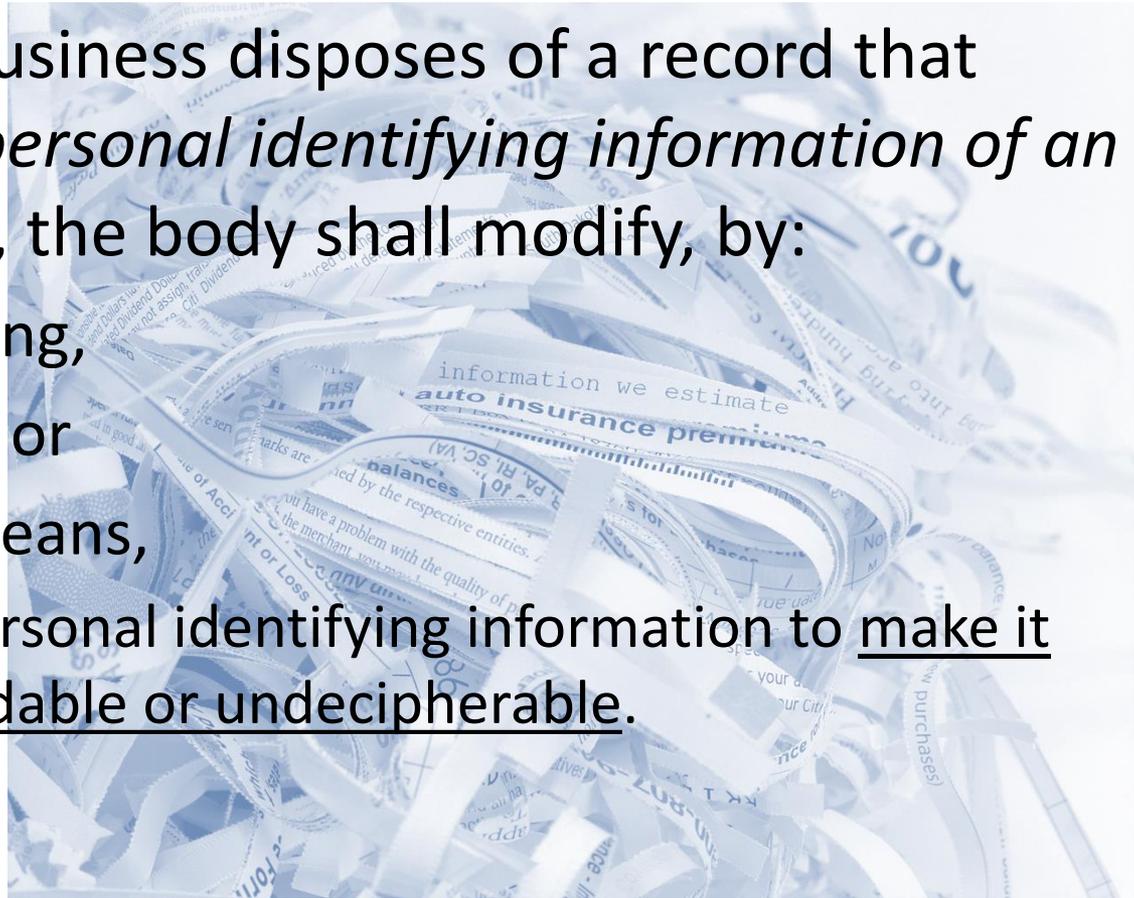
- **Personal identifying information** means the :
 - first name or first initial and
 - last name
 - in combination with and linked to any **one or more** of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted:
 - (1) social security number;
 - (2) driver's license number or state identification card number issued instead of a driver's license;
 - (3) financial account number, or credit card or debit card number in combination with any required security code, access code, or password that would permit access to a resident's financial account; or
 - (4) other numbers or information which may be used to access a person's financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

Records Disposal cont...

- General Records Disposal

- When a business disposes of a record that contains *personal identifying information of an individual*, the body shall modify, by:
 - shredding,
 - erasing, or
 - other means,
 - the personal identifying information to make it unreadable or undecipherable.

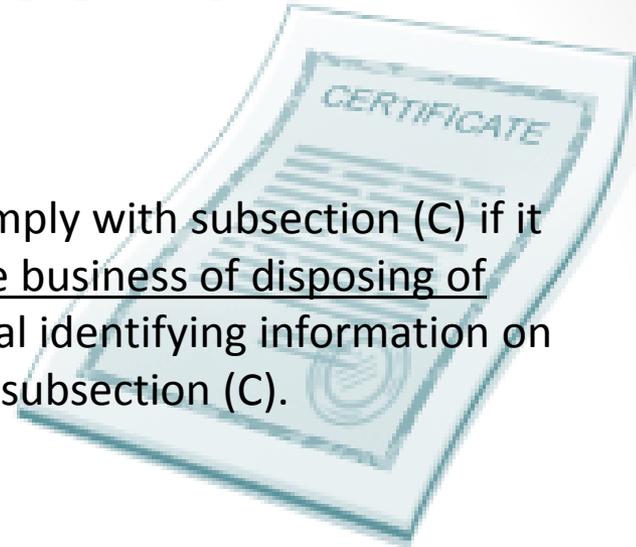


Records Disposal cont...

- **Hiring a 3rd Party**

- (D) A public body is considered to comply with subsection (C) if it contracts with a person engaged in the business of disposing of records for the modification of personal identifying information on behalf of the body in accordance with subsection (C).

- *Get a certificate of destruction*



- **Petition for Compliance: Section 30-2-340**

- Any affected individual may petition the court for an order directing compliance with this section.
- Liability may not accrue to a register of deeds or clerk of court or to his agents for claims or damages that arise from a social security number or other identifying information on the public record

UP NEXT: Security Breaches (Notification)

Security Breaches

- Person “conducting business in this state”
- Effective 7-1-2009



Important Definitions cont...

Breach of the Security of the System means the :

- unauthorized access to and
- acquisition of
- computerized data
 - that was not rendered unusable through encryption, redaction, or other methods that compromise the security, confidentiality, or integrity of personal identifying information maintained by the agency,
- 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.



Security Breach cont...

- **Notification Required (Owner of Data):**

- A person conducting business in this State
- **owning or licensing** computerized data **OR**
- other data
- that includes PII
- shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data
- to a resident of this State
- whose unencrypted and unredacted PII:
 - was, or is reasonably believed to have been, acquired by an unauthorized person
 - when the 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 resident.

Security Breach cont...

Timeliness

- *The disclosure must be made:*
 - in the most expedient time possible and
 - without unreasonable delay,
 - consistent with the legitimate needs of law enforcement, as provided in subsection (C), or
 - with measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.



Law Enforcement-

- Notification may be delayed if:
 - a law enforcement agency determines that the notification impedes a criminal investigation.
 - BUT must be made after the law enforcement agency determines that it no longer compromises the investigation.

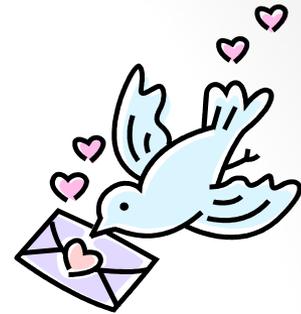
Security Breach cont...

- **Notification Required (Maintainer of Data):**
- An business **maintaining**
 - computerized data or
 - other data
 - that includes PII
 - that the agency does not own
 - shall notify the owner or licensee of the information
 - of a breach of the security of the data
 - immediately following discovery, IF
 - the PII
 - was, **OR**
 - is reasonably believed to have been,
 - acquired by an unauthorized person

Security Breach cont...

• Notification Methods~

- (1) **written notice**;
- (2) **electronic notice, IF:**
 - the person's primary method of communication with the individual is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 USC and Chapter 6, Title 26 of the 1976 Code;
- (3) **telephonic notice ; OR**
- (4) **substitute notice IF:**
 - the cost of providing notice= > \$250,000 **OR**
 - >500,000 people affected **OR**
 - The agency has insufficient contact information.
 - (a) e-mail notice when the agency has an e-mail address for the subject persons;
 - (b) conspicuous posting of the notice on the agency's web site page, if the agency maintains one; or
 - (c) notification to major statewide media.



Security Breach cont...

- **Quasi-Safe Harbor-**
- a business that
 - maintains its own notification procedures as part of an information security policy for the treatment of PII **AND**
 - is otherwise consistent with the timing requirements of this section
- is considered to be in compliance with the notification requirements of this section **IF**
 - it notifies subject persons in accordance with its policies in the event of a breach of security of the system.



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 to DCA & CRAs~**

- **When:**

- Provide notice to > 1,000 persons at 1 time
- without unreasonable delay notify
 - Consumer Protection Division of the Department of Consumer Affairs and
 - all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined in 15 USC Section 1681a(p)

- **Notice Must Include:**

- Timing,
- Distribution, and
- Content of Notice

Mail To:

Legal Division

**RE: Security Breach Notification
SCDCA**

P.O. Box 5757

Columbia, SC 29250

Security Breach cont...

- **Penalties:**

- Private Cause of Action~

- A resident of this State who is injured by a violation of this section, in addition to and cumulative of all other rights and remedies available at law, may:

- (1) institute a civil action to recover damages;
- (2) seek an injunction to enforce compliance; and
- (3) recover attorney's fees and court costs, if successful.

- **Administrative Fines** ~

- An agency that

- knowingly and wilfully violates this section is subject to an administrative fine
- up to **\$1,000** for each resident whose information was accessible by reason of the breach

UP NEXT: Security Freeze (more)

Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

Security Freeze

- ***In General***

- **Freeze**- credit report cannot be accessed without consumer's permission
- Available to **ANYONE**
- Submit request to *each* of the 3 CRAs
- **CRA must place freeze within 5 days**



Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- Security Freeze cont...
 - *Within 10 Days* of request 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*

Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- Security Freeze cont...
 - **To Thaw** (temporarily remove a 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**



Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- *While Freeze in Place CRA Must:*
 - CRA must notify consumer of personal info changes **within 30 days**
 - address, name, social security #, DOB
 - Notify person requesting a report = frozen
- *Point to Remember - Getting New Credit*
 - The freeze only affects the opening of new accounts, loans, etc.
 - Before applying for a new loan, credit, etc. you must thaw/remove the freeze

UP NEXT: Credit Report Dispute

Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- 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

Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- Right to Dispute~ **FIFITPA Additions**
 - **If CRA DENIES inaccuracy MUST:**
 - Give basis;
 - Send copy of file, including which creditors were contacted;
 - Give sufficient evidence that info is accurate
 - §37-20-170
 - **If CRA ADMITS inaccuracy MUST:**
 - Correct & contact creditors/requestors from the last six months

Financial Identity Fraud and Identity Theft Protection Act (FIFITPA)

- Right to Dispute cont...
 - Penalties for wilfull or negligent violations
 - Damages, Reasonable atty's fees & costs
 - §37-20-170
 - Private Cause of Action
 - Department of Consumer Affairs to Enforce
 - Complaints: 1-800-922-1594 or www.consumer.sc.gov "Complaint Services"
 - Pattern or Practice

UP NEXT: Other Protections

Other Protections (SC law)

- Unlawful to “dumpster dive” Dumpster diving” (§16-11-725) is the rummaging or stealing of another person’s household garbage for the purpose of committing identity theft or fraud.
 - Misdemeanor
 - Felony (intentional)
- Creates crime of “Financial Identity Fraud”
 - §16-13-510
 - Felony (intentional)
- Credit Card Receipts
 - *Mirrors Federal Law*
 - Business may only print 5 digits (or less) of a credit/debit card # on consumer’s receipts

Other Protections (SC law)

- 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. (§37-20-120)
- 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.

File a Police Report?

- If a victim of ID Theft, call the local police as soon as possible
 - Request copy of official police report/Identity Theft Report
 - *May need to ask for “information only” report*
 - **Police Report + ID Theft Affidavit (FTC) = Identity Theft Report to submit to CRAs**
- *SC law requires police to write reports for identity theft victims*
 - A map of states with such laws available:
www.idsafety.org/map

ID Theft Report – FTC

- ID Theft Affidavit (from FTC site) – can be incorporated into the police report
- The regular police report with the ID Theft Affidavit attached will be an **Identity Theft Report** that will be accepted by the CRAs. Will need a Identity Theft Report for
 - Blocking certain info on credit report
 - Extended Fraud Alert



ID Theft Report- FTC

<http://www.consumer.ftc.gov/articles/0277-create-identity-theft-report>

FEDERAL TRADE COMMISSION ESPAÑOL

CONSUMER INFORMATION

✉ Email  Print  SHARE

Veja esta página en español

MONEY & CREDIT

HOMES & MORTGAGES

HEALTH & FITNESS

JOBS & MAKING MONEY

PRIVACY & IDENTITY

Limiting Unwanted Calls and Emails

Computer Security

Kids' Online Safety

Protecting Your Identity

Repairing Identity Theft

BLOG

Create an Identity Theft Report

An Identity Theft Report gives you some important rights that can help you recover from the theft. To create one, file a complaint with the FTC and print your Identity Theft Affidavit. Use that to file a police report and create your Identity Theft Report.

→ [Why Create an Identity Theft Report](#)

→ [How to Create an Identity Theft Report](#)

Why Create an Identity Theft Report

An Identity Theft Report will help you deal with credit reporting companies, debt collectors, and businesses that gave the identity thief credit or opened new accounts in your name. You can use the Report to:

- get **fraudulent information removed from your credit report**
- **stop a company from collecting debts** that result from identity theft, or from selling the debt to another company for collection
- place an **extended fraud alert** on your credit report

This article is part of a series: **Immediate Steps to Repair Identity Theft**

1. [Place a Fraud Alert](#)
2. [Order Credit Reports](#)
3. [Create an Identity Theft Report](#)

This series is available as a PDF:

 **Related PDF**
[Order Free Copies](#)

UP NEXT: Tips and Resources

Tips...



- Shred, shred, shred!
- Be a skeptic and ask questions. (“*WHY* do you need my SSN?”)
- Limit what you carry. Take only the cards you need. Leave your Social Security card at home.
- Make a copy of your Medicare card and black out all but the last four digits on the copy. Carry the copy with you .
- Make sure your smartphone is password protected and use anti-virus programs.

Tips...



- Don't leave outgoing mail in your mailbox, take to PO. Arrange for "mail hold" when out of town.
- Review bank statements, EOBs, credit card statements...closely and timely.
- "Opt out" of prescreened offers of credit and insurance by mail. You can opt out for 5 years or permanently. To opt out, call [1-888-567-8688](tel:1-888-567-8688) or go to optoutprescreen.com.

Additional Resources: FTC Materials for Consumers



- *Taking Charge: Fighting Back Against Identity Theft* (booklet)
- *Deter, Detect, Defend* (pamphlet)
- *FTC Facts for Consumers* (newsletter)
- Identity Theft Microsite
<http://www.idtheft.gov>

www.ftc.gov/bulkorder

Additional Resources:

SC.GOV Online Services Agency Listing Search consumer.sc.gov Search

SOUTH CAROLINA
DEPARTMENT OF CONSUMER AFFAIRS

QUICK LINKS ▶ HOME CONTACT US FILE A COMPLAINT LICENSEE LOOKUP Font Size: A + A - Reset

ABOUT US
CONSUMER INFORMATION
BUSINESS/INDUSTRY INFORMATION
NEWS RELEASES & PUBLICATIONS
LEGAL
PRIVACY STATEMENT

SC CONSUMER AFFAIRS
SCDCA

FTC It's tough enough 2 find job or start your own biz, even w/o scammers trying 2 take advantage. Get tips 2 avoid scams: go.usa.gov/g36e 16 minutes ago · reply · retweet · favorite

Home

Welcome

The South Carolina Department of Consumer Affairs ("Department") is the state's consumer protection agency. Established in 1974, DCA has more than thirty years of experience in protecting South Carolina consumers while recognizing those businesses that act honestly and fairly.

The Department accomplishes its mission by: 1.) acting as an effective regulator, 2.) providing complaint mediation services that are unmatched at both state and federal levels, 3.) saving millions for both consumers and small businesses through insurance rate filing intervention, and 4.) serving as an educational portal for consumers and businesses alike.

Click [here](#) to learn more about the agency.

What's New?

In addition to opting into the free credit report monitoring offered by the Department of Revenue by calling 866-578-5422 or going to www.protectmyid.com/scdor, here are some steps you can take:

Helpful Links

IDENTITY THEFT RESOURCES

[Dept. of Revenue Security Breach](#)

[Credit Card Repayment Calculator](#)

[Online Filing thru SCBOS](#)

[NMLS consumer access](#)

www.consumer.sc.gov

SCDCA on Twitter

The screenshot shows the Twitter profile for SC Consumer Affairs (@SCDCA). The profile bio reads: "Protecting consumers from inequalities in the marketplace since 1979! Columbia, SC - http://www.consumer.sc.gov". The profile statistics show 753 tweets, 231 following, and 2,147 followers. A "Follow" button is visible. The "Tweets" section contains three tweets from @SCDCA, each with a video thumbnail. The left sidebar includes navigation options like "Tweets", "Following", "Followers", "Favorites", and "Lists", along with a "Follow SC Consumer Affairs" form.

SCDCA on Facebook

The screenshot shows the Facebook page for the SC Department of Consumer Affairs. The page header includes the Facebook logo and the text "SC Department of Consumer Affairs". A large banner image features a woman sitting at a desk with a plant, and the text "Consumers" and "SC Department of Consumer Affairs is on Facebook." Below the banner, there is a "Like" button and a "45 likes" count. The page also displays a "Government Organization" badge and a "45" like count. The "About" section provides information about the SCDCA's mission to protect and educate consumers.

SCDCA on YouTube

The screenshot shows the YouTube channel page for the SC Dept. of Consumer Affairs. The channel has 64 subscribers and 96,859 video views. The "Uploaded videos" section lists several videos, including "Worried About Identity Theft?", "Business responsibilities under new FIFITP", and "Debt Collection Scam! Don't pay what you c". A large blue arrow points from the "SCDCA on YouTube" text to the channel page. The right sidebar contains information about the channel, including the date joined (May 30, 2008) and country (United States).

Questions



Marti Phillips

Staff Attorney

803-734-4297

mphillips@scconsumer.gov



Toll Free: 1-800-922-1594

Fax: 803-734-4229

www.consumer.sc.gov