

CHAPTER V

NC Identity Theft Act

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NORTH CAROLINA

BAR ASSOCIATION
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CHAPTER V
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CHAPTER V
NC Identity Theft Act

A. AGENDA

1. Key Definitions from N.C. Gen. Stat. § 75-61
2. Social Security Number
3. Statistics
4. Security Breach
5. Destruction of Records
6. Prevention

B. KEY DEFINITIONS FROM N.C. GEN. STAT. § 75-61

1. **Business-** Sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit. N.C. Gen. Stat. § 75-61 (1)
2. **Consumer-** Individual. N.C. Gen. Stat. § 75-61 (2)
3. **Disposal-** Discarding or abandonment of records containing personal Information. N.C. Gen. Stat. § 75-61 (7)
4. **Encryption-**transform data into a form which the data is rendered unreadable. N.C. Gen. Stat § 75-61 (8)
5. **Person-** Any Individual, partnership, corporation, trust estate, cooperative, association, governmental subdivision or agency. N.C. Gen. Stat § 75-61 (9)
6. **Personal Information-** First name or first initial and the last name in combination with identifying information pursuant to N.C. Gen. Stat § 14-113.20(b). N.C. Gen. Stat § 75-61 (10)
 - a. **Identifying Information-**SSN, DL#, State ID card, checking saving account, ... N.C. Gen. Stat § 14-113.20(b).
7. **Records-** any material written, drawn, spoken, visual, or electromagnetic information is recorded or preserved. N.C. Gen. Stat § 75-61 (12)
8. **Redaction-**unreadable data or truncated so the last four digits of the ID number is accessible. N.C. Gen. Stat § 75-61 (13)

9. **Security Breach**-Unauthorized access to unencrypted information or unauthorized access to and acquisition of encrypted records/data containing personal information with a key. N.C. Gen. Stat § 75-61 (14)

C. **SOCIAL SECURITY NUMBER** N.C. GEN. STAT § 75-62.

1. **Business- SSN Obligations** N.C. Gen. Stat § 75-62 (a)

- a. **a business may not:**

- (1) make SSN public
- (2) Print a SSN on any card to access products or services.
- (3) Require use of SSN on a website, unless secure/encrypted.
- (4) Require SSN to access a Web site, unless a password, PIN, or other authentication is also required.
- (5) SSN on materials being mailed to individual, unless state or federal law requires this.
- (6) Sell, lease, loan, trade, rent, or otherwise intentionally disclose SSN to third party.

- b. **SSN Exemptions:** N.C. Gen. Stat § 75-62 (b)

- (1) **Application, enrollment process, an account, contract, or policy;**
- (2) **Use for internal verification/administrative purposes;**
- (3) **Opening an account or payment for a product/service authorized by an individual;**
- (4) **Investigate or prevent fraud, background checks, social or scientific research, collect a debt, obtain a credit report, or locate an individual who is missing, or due a benefit;**
- (5) **Acting pursuant to a court order, warrant, subpoena, or when otherwise required by law;**
- (6) **Provided to a federal, state, or local government entity; and**
- (7) **A social security number that has been redacted.**

D. **PREVENTION**

1. **Tips for businesses:**
 - a. **Don't ask for clients' personal information unless it is necessary**
 - b. **Do not use DL and SSN as account numbers**
 - c. **Job application SSN**
 - d. **Background check on new hires with access to sensitive information**
 - e. **Designated areas**
 - f. **Employee leaves?**
 - g. **Lock files**
 - h. **Computers**

E. **NC DOJ STATISTICS**

1. **2017 NC DOJ Data Breach Statistics:** (North Carolina Department of Justice Security Breach Report 2017-
www.ncdoj.gov/Files/About-DOJ/NCDOJ-2017-ANNUAL-REPORT.aspx) \
 - a. **1,022 data breaches reported to the North Carolina Department of Justice (NCDOJ) between January 1, 2017 and December 31, 2017.**
 - b. **Accidental release and display breaches have steadily declined since 2013; they accounted for only 13% of total breaches in 2017.**
 - c. **Last year, more than 5.3 million North Carolinians are estimated to have been affected by data breaches.**

F. **SECURITY BREACH REQUIREMENTS** N.C. GEN. STAT § 75-65

1. **If you have a security breach you are required to give notice** N.C. Gen. Stat § 75-65(a) Any business that owns or licenses personal information in any form (digital, paper, or otherwise) of NC residents SHALL provide notice there has been a security breach to:
 - a. **Affected Consumer**
 - (1) **Exceptions for notice delay: Law enforcement agency says so, and get the request in writing.**
 - b. **NC DOJ** (www.ncdoj.gov/getdoc/81eda50e-8feb-4764-adca-b5c47f211612/Report-a-Security-Breach.aspx)
 - c. **Report to the three major reporting agencies: Equifax, Experian, Trans Union**

- (1) **When more than 1,000 persons were given notice**
 2. **Method of Notice:** N.C. Gen. Stat § 75-65(e)
 - a. **Letter.**
 - b. **Email - when consumer consents.**
 - c. **Telephone.**
 3. **Amount of Time to give notice**
 - a. **Without unreasonable delay** N.C. Gen. Stat § 75-65(a)
 4. **Substitute Notice through email, web page announcement, or media when:** N.C. Gen. Stat § 75-65(e)
 - a. **Cost exceeds \$250k, or**
 - b. **Number of consumers exceed 500,000, or**
 - c. **Business does not have sufficient contact information.**
 5. **Description of Notice:** N.C. Gen. Stat § 75-65(d)
 - a. **Description of the incident**
 - b. **Type of personal information breached;**
 - c. **Description of your efforts to avoid further unauthorized access to personal information;**
 - d. **Telephone number where people can call;**
 - e. **and Advice for people who are affected**
- G. DESTRUCTION OF PERSONAL RECORDS** N.C. GEN. STAT § 75-64
1. **Any business that conducts business in North Carolina and any business that maintains or possesses personal information of a resident of NC must**
 - a. **Take reasonable measures to protect against unauthorized access to**
 - b. **or use of the Information in connection with or after its disposal**
 - c. **Don't forget about electronic media**

H. PROTECTIONS AGAINST A SECURITY BREACH

- 1. Security Freeze** N.C. Gen. Stat § 75-63
 - a. Designed to prevent credit, loans, and services from being approved in your name without your consent**
 - b. Through each consumer reporting agency**
 - c. By phone, mail, web site (24 hours to take affect by phone and website)**
 - d. Create a PIN for each agency**
 - e. Permanent**
 - f. Free if: NC-online, over the age of 62, victim of identity theft**
 - g. UPDATE: CONGRESS passed a law making the security freeze free for everyone.**

I. NC DOJ SECURITY BREACH CASES

- 1. Facebook**
- 2. Uber**
- 3. Equifax**

J. SCAMS & FRAUDS N.C. GEN. STAT § 75-1.1

- 1. Types of scams**
 - a. Telemarketing**
 - b. Sweepstakes**
 - c. Grandparent**
 - d. Sweetheart**
 - e. Investment**
 - f. Health care**
 - g. Home construction & repair**

- h. Charity
 - i. IRS
 - 2. NC DOJ Statistics for 2017
 - 3. More Examples
 - 4. Tips to prevent scams
 - a. Too Good to Be True
 - b. Don't Pay in Advance
 - c. Protect Your Info
 - d. Pay with a Credit Card
 - e. Ask Before You Pay
 - f. File a consumer complaint
 - (1) TO FILE A CONSUMER COMPLAINT ncdoj.gov/complaint
 - 5. TO SIGN UP FOR INFORMATION & SCAM ALERTS: ncdoj.gov/alertsignup
 - 6. TO CALL THE CONSUMER PROTECTION DIVISION: 1-877-5-NO-SCAM (566-7226) En Espanol (919) 716-0058
- K. TIPS FOR MILITARY (WWW.NCDOJ.GOV/CONSUMER/TIPS-FOR-MILITARY-PERSONNEL.ASPX)
- L. TIPS FOR PRE-DEPLOYMENT NC DOJ 2018 MILITARY CONSUMER GUIDE (NCDOJ.GOV/GETATTACHMENT/4F484C3E-AD73-4930-86C1-917377BF981D/2018-MILITARY-CONSUMER-GUIDE_FINAL.PDF.ASPX)
- M. END

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Link to the 2018 Military Consumer Guide: https://ncdoj.gov/Files/Consumer/Military/2018-Military-Consumer-Guide_110218updated.aspx

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