

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1279
Committee Substitute Favorable 4/27/99
Senate Judiciary I Committee Substitute Adopted 6/30/99

Short Title: Financial Identity Fraud.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE CRIMINAL OFFENSE OF FINANCIAL IDENTITY
3 FRAUD AND TO ALLOW FOR THE RECOVERY OF DAMAGES FOR
4 FINANCIAL IDENTITY FRAUD.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 14 of the General Statutes is amended by adding a new
7 Article to read:

8 **“ARTICLE 19C.**

9 **“FINANCIAL IDENTITY FRAUD.**

10 **“§ 14-113.20. Financial identity fraud.**

11 (a) A person who knowingly obtains, possesses, or uses personal identifying
12 information of another person without the consent of that other person, with the intent to
13 fraudulently represent that the person is the other person for the purposes of making
14 financial or credit transactions in the other person's name or for the purpose of avoiding
15 legal consequences is guilty of a felony punishable as provided in G.S. 14-113.22(a).

16 (b) The term ‘identifying information’ as used in this section includes the
17 following:

18 (1) Social security numbers.

- 1 (2) Drivers license numbers.
- 2 (3) Checking account numbers.
- 3 (4) Savings account numbers.
- 4 (5) Credit card numbers.
- 5 (6) Debit card numbers.
- 6 (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(8).
- 7 (8) Electronic identification numbers.
- 8 (9) Digital signatures.
- 9 (10) Any other numbers or information that can be used to access a person's
10 financial resources.

11 (c) It shall not be a violation under this section for a person to do any of the
12 following:

- 13 (1) Lawfully obtain credit information in the course of a bona fide
14 consumer or commercial transaction.
- 15 (2) Lawfully exercise, in good faith, a security interest or a right of offset
16 by a creditor or financial institution.
- 17 (3) Lawfully comply, in good faith, with any warrant, court order, levy,
18 garnishment, attachment, or other judicial or administrative order,
19 decree, or directive, when any party is required to do so.

20 **"§ 14-113.21. Venue of offenses.**

21 In any criminal proceeding brought under G.S. 14-113.20, the crime is considered to
22 be committed in any county in which any part of the financial identity fraud took place,
23 regardless of whether the defendant was ever actually present in that county.

24 **"§ 14-113.22. Punishment and liability.**

25 (a) A violation of G.S. 14-113.22 is punishable as a Class H felony, except if the
26 victim suffers arrest, detention, or conviction as a proximate result of the offense, then
27 the violation is punishable as a Class G felony.

28 (b) Notwithstanding subsection (a) of this section, any person who knowingly
29 obtains, possesses, or uses personal identifying information of another person without the
30 consent of that other person, with the intent to fraudulently represent that the person is the
31 other person for the purposes of making financial or credit transactions in the other
32 person's name or for the purpose of avoiding legal consequences, shall be liable to the
33 other person for civil damages of up to five thousand dollars (\$5,000) for each incident,
34 or three times the amount of actual damages, if any, sustained by the person damaged,
35 whichever amount is greater. A person damaged as set forth in this subsection may also
36 institute a civil action to enjoin and restrain future acts which would constitute a violation
37 of this subsection. The court, in an action brought under this subsection, may award
38 reasonable attorneys' fees to the prevailing party.

39 (c) In any case in which a person obtains identifying information of another person
40 in violation of G.S. 14-113.20, uses that information to commit a crime in addition to a
41 violation of G.S. 14-113.20, and is convicted of that additional crime, the court records
42 shall reflect that the person whose identity was falsely used to commit the crime did not
43 commit the crime.

1 **"§ 14-113.23. Authority of the Attorney General.**

2 The Attorney General may investigate any complaint regarding financial identity
3 fraud under this Article. In conducting these investigations, the Attorney General has all
4 the investigative powers available to the Attorney General under Article 1 of Chapter 75
5 of the General Statutes. The Attorney General shall refer all cases of financial identity
6 fraud under G.S. 14-113.20 to the district attorney in the county where the crime was
7 deemed committed in accordance with G.S. 14-113.21."

8 Section 2. This act becomes effective December 1, 1999, and applies to
9 offenses committed on or after that date.