

Article 2A.  
Identity Theft Protection Act.

**§ 75-60. Title.**

This Article shall be known and may be cited as the "Identity Theft Protection Act".  
(2005-414, s. 1.)

**§ 75-61. Definitions.**

The following definitions apply in this Article:

- (1) "Business". – A sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit. The term includes a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent or the subsidiary of any such financial institution. Business shall not include any government or governmental subdivision or agency.
- (2) "Consumer". – An individual.
- (3) "Consumer report" or "credit report". – Any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for any of the following:
  - a. Credit to be used primarily for personal, family, or household purposes.
  - b. Employment purposes.
  - c. Any other purpose authorized under 15 U.S.C. § 1681(b).
- (4) "Consumer reporting agency". – Any person who, for monetary fees, 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 on consumers for the purpose of furnishing consumer reports to third parties.
- (5) "Credit card". – Has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. § 160, et seq.).
- (6) "Debit card". – Any 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 such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.
- (7) "Disposal" includes the following:
  - a. The discarding or abandonment of records containing personal information.
  - b. The sale, donation, discarding, or transfer of any medium, including computer equipment or computer media, containing records of personal information, or other nonpaper media upon which records of personal information are stored, or other equipment for nonpaper storage of information.
- (8) "Encryption". – The use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

- 1 (9) "Person". – Any individual, partnership, corporation, trust, estate,  
2 cooperative, association, government, or governmental subdivision or  
3 agency, or other entity.
- 4 (10) "Personal information". – A person's first name or first initial and last name  
5 in combination with identifying information as defined in G.S. 14-113.20(b).  
6 Personal information does not include publicly available directories  
7 containing information an individual has voluntarily consented to have  
8 publicly disseminated or listed, including name, address, and telephone  
9 number, and does not include information made lawfully available to the  
10 general public from federal, state, or local government records.
- 11 (11) "Proper identification". – Information generally deemed sufficient to identify  
12 a person. If a person is unable to reasonably identify himself or herself with  
13 the information described above, a consumer reporting agency may require  
14 additional information concerning the consumer's employment and personal  
15 or family history in order to verify the consumer's identity.
- 16 (12) "Records". – Any material on which written, drawn, spoken, visual, or  
17 electromagnetic information is recorded or preserved, regardless of physical  
18 form or characteristics.
- 19 (13) "Redaction". – The rendering of data so that it is unreadable or is truncated  
20 so that no more than the last four digits of the identification number is  
21 accessible as part of the data.
- 22 (14) "Security breach". – An incident of unauthorized access to and acquisition of  
23 unencrypted and unredacted records or data containing personal information  
24 where illegal use of the personal information has occurred or is reasonably  
25 likely to occur or that creates a material risk of harm to a consumer. Any  
26 incident of unauthorized access to and acquisition of encrypted records or  
27 data containing personal information along with the confidential process or  
28 key shall constitute a security breach. Good faith acquisition of personal  
29 information by an employee or agent of the business for a legitimate purpose  
30 is not a security breach, provided that the personal information is not used  
31 for a purpose other than a lawful purpose of the business and is not subject  
32 to further unauthorized disclosure.
- 33 (15) "Security freeze". – Notice placed in a credit report, at the request of the  
34 consumer and subject to certain exceptions, that prohibits the consumer  
35 reporting agency from releasing all or any part of the consumer's credit  
36 report or any information derived from it without the express authorization  
37 of the consumer. (2005-414, s. 1.)

38  
39 **§ 75-62. Social security number protection.**

40 (a) Except as provided in subsection (b) of this section, a business may not do any of  
41 the following:

- 42 (1) Intentionally communicate or otherwise make available to the general public  
43 an individual's social security number.
- 44 (2) Intentionally print or imbed an individual's social security number on any  
45 card required for the individual to access products or services provided by  
46 the person or entity.
- 47 (3) Require an individual to transmit his or her social security number over the  
48 Internet, unless the connection is secure or the social security number is  
49 encrypted.
- 50 (4) Require an individual to use his or her social security number to access an  
51 Internet Web site, unless a password or unique personal identification

1 number or other authentication device is also required to access the Internet  
2 Web site.

3 (5) Print an individual's social security number on any materials that are mailed  
4 to the individual, unless state or federal law requires the social security  
5 number to be on the document to be mailed.

6 (6) Sell, lease, loan, trade, rent, or otherwise intentionally disclose an  
7 individual's social security number to a third party without written consent to  
8 the disclosure from the individual, when the party making the disclosure  
9 knows or in the exercise of reasonable diligence would have reason to  
10 believe that the third party lacks a legitimate purpose for obtaining the  
11 individual's social security number.

12 (b) Subsection (a) of this section shall not apply in the following instances:

13 (1) When a social security number is included in an application or in documents  
14 related to an enrollment process, or to establish, amend, or terminate an  
15 account, contract, or policy; or to confirm the accuracy of the social security  
16 number for the purpose of obtaining a credit report pursuant to 15 U.S.C. §  
17 1681(b)(2). A social security number that is permitted to be mailed under  
18 this section may not be printed, in whole or in part, on a postcard or other  
19 mailer not requiring an envelope, or visible on the envelope or without the  
20 envelope having been opened.

21 (2) To the collection, use, or release of a social security number for internal  
22 verification or administrative purposes.

23 (3) To the opening of an account or the provision of or payment for a product or  
24 service authorized by an individual.

25 (4) To the collection, use, or release of a social security number to investigate or  
26 prevent fraud, conduct background checks, conduct social or scientific  
27 research, collect a debt, obtain a credit report from or furnish data to a  
28 consumer reporting agency pursuant to the Fair Credit Reporting Act, 15  
29 U.S.C. § 1681, et seq., undertake a permissible purpose enumerated under  
30 Gramm Leach Bliley, 12 C.F.R. § 216.13-15, or locate an individual who is  
31 missing, a lost relative, or due a benefit, such as a pension, insurance, or  
32 unclaimed property benefit.

33 (5) To a business acting pursuant to a court order, warrant, subpoena, or when  
34 otherwise required by law.

35 (6) To a business providing the social security number to a federal, state, or  
36 local government entity, including a law enforcement agency, court, or their  
37 agents or assigns.

38 (7) To a social security number that has been redacted.

39 (c) A business covered by this section shall make reasonable efforts to cooperate,  
40 through systems testing and other means, to ensure that the requirements of this Article are  
41 implemented.

42 (d) A violation of this section is a violation of G.S. 75-1.1. (2005-414, s. 1.)

43  
44 **§ 75-63. Security freeze.**

45 (a) A consumer may place a security freeze on the consumer's credit report by making a  
46 request to a consumer reporting agency in accordance with this subsection. A security freeze  
47 shall prohibit, subject to exceptions in subsection (l) of this section, the consumer reporting  
48 agency from releasing the consumer's credit report or any information from it without the  
49 express authorization of the consumer. When a security freeze is in place, a consumer reporting  
50 agency may not release the consumer's credit report or information to a third party without  
51 prior express authorization from the consumer. This subsection does not prevent a consumer

1 reporting agency from advising a third party that a security freeze is in effect with respect to the  
2 consumer's credit report, provided that the consumer reporting agency does not state or  
3 otherwise imply to the third party that the consumer's security freeze reflects a negative credit  
4 score, history, report, or rating. A consumer reporting agency shall place a security freeze on a  
5 consumer's credit report if the consumer requests a security freeze by any of the following  
6 methods:

- 7 (1) First-class mail.
- 8 (2) Telephone call.
- 9 (3) Secure Web site or secure electronic mail connection.

10 (a1) A nationwide consumer reporting agency, as defined in section 603(p) [15 U.S.C. §  
11 1681a(p)] of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., that receives a  
12 request from a consumer residing in this State to place a security freeze on the consumer's file,  
13 shall provide a notice communicating to the consumer that the freeze is only placed with the  
14 consumer reporting agency to which the consumer directed the request. The notice shall  
15 provide to the consumer the Web site, postal address, and telephone number of the other  
16 nationwide consumer reporting agencies and of the North Carolina Attorney General's Office  
17 and shall inform the consumer that he or she may use this information to contact other  
18 nationwide consumer reporting agencies to make security freeze requests and obtain  
19 information on combating identity theft. No part of the notice to the consumer shall be used to  
20 make a solicitation for other goods and services.

21 (b) A consumer reporting agency shall place a security freeze on a consumer's credit  
22 report no later than three business days after receiving a written request from the consumer by  
23 mail. A consumer reporting agency that receives such a request electronically or by telephone  
24 shall comply with the request within 24 hours of receiving the request.

25 (c) The consumer reporting agency shall send a written confirmation of the security  
26 freeze to the consumer within three business days of placing the freeze and at the same time  
27 shall provide the consumer with a unique personal identification number or password, other  
28 than the consumer's social security number, to be used by the consumer when providing  
29 authorization for the release of the consumer's credit report for a specific period of time, or to  
30 a specific party, or for permanently lifting the freeze.

31 (d) If the consumer wishes to allow the consumer's credit report to be accessed for a  
32 specific period of time or by a specific party while a freeze is in place, the consumer shall  
33 contact the consumer reporting agency by mail, phone, or electronically, request that the freeze  
34 be lifted or lifted with respect to a specific party, and provide all of the following:

- 35 (1) Proper identification.
- 36 (2) The unique personal identification number or password provided by the  
37 consumer reporting agency pursuant to subsection (c) of this section.
- 38 (3) The proper information regarding the third party who is authorized to  
39 receive the consumer credit report or the time period for which the report  
40 shall be available to users of the credit report.

41 (e) Repealed by Session Laws 2009-355, s. 1, effective October 1, 2009.

42 (f) A consumer reporting agency that receives a request by mail from a consumer to lift  
43 a freeze on a credit report pursuant to subsection (d) of this section shall comply with the  
44 request no later than three business days after receiving the request. A consumer reporting  
45 agency that receives such a request electronically or by telephone shall comply with the request  
46 within 15 minutes of receiving the request.

47 (g) A consumer reporting agency shall remove, temporarily lift, or lift with respect to a  
48 specific third party a freeze placed on a consumer's credit report only in the following cases:

- 49 (1) Upon the consumer's request, pursuant to subsections (d) or (j) of this  
50 section.

1 (2) If the consumer's credit report was frozen due to a material  
2 misrepresentation of fact by the consumer. If a consumer reporting agency  
3 intends to remove a freeze upon a consumer's credit report pursuant to this  
4 subdivision, the consumer reporting agency shall notify the consumer in  
5 writing prior to removing the freeze on the consumer's credit report.

6 (g1) A consumer reporting agency need not meet the time requirements provided in this  
7 section, only for such time as the occurrences prevent compliance, if any of the following  
8 occurrences apply:

9 (1) The consumer fails to meet the requirements of subsection (d) or (j) of this  
10 section.

11 (2) The consumer reporting agency's ability to remove, place, temporarily lift, or  
12 lift with respect to a specific party the security freeze is prevented by any of  
13 the following:

14 a. An act of God, including fire, earthquakes, hurricanes, storms, or  
15 similar natural disaster or phenomena.

16 b. Unauthorized or illegal acts by a third party, including terrorism,  
17 sabotage, riot, vandalism, labor strikes or disputes disrupting  
18 operations, or similar occurrences.

19 c. Operational interruption, including electrical failure, unanticipated  
20 delay in equipment or replacement part delivery, computer hardware  
21 or software failures inhibiting response time, or similar disruption.

22 d. Governmental action, including emergency orders or regulations,  
23 judicial or law enforcement action, or similar directives.

24 e. Regularly scheduled maintenance, during other than normal business  
25 hours, of, or updates to, the consumer reporting agency's systems.

26 f. Commercially reasonable maintenance of, or repair to, the consumer  
27 reporting agency's systems that is unexpected or unscheduled.

28 g. Receipt of a request outside of normal business hours.

29 (h) If a third party requests access to a consumer credit report on which a security  
30 freeze is in effect and this request is in connection with an application for credit or any other  
31 use and the consumer does not allow the consumer's credit report to be accessed for that  
32 specific period of time, the third party may treat the application as incomplete.

33 (i) If a consumer requests a security freeze pursuant to this section, the consumer  
34 reporting agency shall disclose to the consumer the process of placing and temporarily lifting a  
35 security freeze and the process for allowing access to information from the consumer's credit  
36 report for a specific period of time or to a specific third party while the security freeze is in  
37 place.

38 (j) A security freeze shall remain in place until the consumer requests that the security  
39 freeze be temporarily lifted for a specific period of time or to a specific third party or removed.  
40 A consumer reporting agency shall remove a security freeze within 15 minutes of receiving an  
41 electronic request for removal from the consumer or within three business days of receiving a  
42 written or telephonic request for removal from the consumer, who provides all of the following:

43 (1) Proper identification.

44 (2) The unique personal identification number or password provided by the  
45 consumer reporting agency pursuant to subsection (c) of this section.

46 (k) A consumer reporting agency shall require proper identification of the person  
47 making a request to place or remove a security freeze.

48 (l) The provisions of this section do not apply to the use of a consumer credit report by  
49 any of the following:

50 (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or  
51 assignee with whom the consumer has, or prior to assignment had, an

1 account, contract, or debtor-creditor relationship for the purposes of  
2 reviewing the active account or collecting the financial obligation owing for  
3 the account, contract, or debt.

- 4 (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to  
5 whom access has been granted under subsection (d) of this section for  
6 purposes of facilitating the extension of credit or other permissible use.  
7 (3) Any person acting pursuant to a court order, warrant, or subpoena.  
8 (4) A state or local agency, or its agents or assigns, which administers a program  
9 for establishing and enforcing child support obligations.  
10 (5) A state or local agency, or its agents or assigns, acting to investigate fraud,  
11 including Medicaid fraud, or acting to investigate or collect delinquent taxes  
12 or assessments, including interest and penalties, unpaid court orders, or to  
13 fulfill any of its other statutory responsibilities.  
14 (6) A federal, state, or local governmental entity, including law enforcement  
15 agency, court, or their agent or assigns.  
16 (7) A person for the purposes of prescreening as defined by the Fair Credit  
17 Reporting Act, 15 U.S.C. § 1681, et seq.  
18 (8) Any person for the sole purpose of providing for a credit file monitoring  
19 subscription service to which the consumer has subscribed.  
20 (9) A consumer reporting agency for the purpose of providing a consumer with  
21 a copy of the consumer's credit report upon the consumer's request.  
22 (10) Any depository financial institution for checking, savings, and investment  
23 accounts.  
24 (11) Any property and casualty insurance company for use in setting or adjusting  
25 a rate, adjusting a claim, or underwriting for property and casualty insurance  
26 purposes.  
27 (12) A person for the purpose of furnishing or using credit reports for  
28 employment purposes pursuant to 15 U.S.C. § 1681b(b) or tenant screening  
29 pursuant to 15 U.S.C. § 1681b(a)(3)(F).  
30 (13) A person for the purpose of criminal background record information.

31 (m) If a security freeze is in place, a consumer reporting agency shall not change any of  
32 the following official information in a credit report without sending a written confirmation of  
33 the change to the consumer within 30 days of the change being posted to the consumer's file:  
34 name, date of birth, social security number, and address. Written confirmation is not required  
35 for technical modifications of a consumer's official information, including name and street  
36 abbreviations, complete spellings, or transposition of numbers or letters. In the case of an  
37 address change, the written confirmation shall be sent to both the new address and the former  
38 address.

39 (n) The following persons are not required to place in a credit report a security freeze  
40 pursuant to this section provided, however, that any person that is not required to place a  
41 security freeze on a credit report under the provisions of subdivision (3) of this subsection shall  
42 be subject to any security freeze placed on a credit report by another consumer reporting  
43 agency from which it obtains information:

- 44 (1) A check services or fraud prevention services company, which reports on  
45 incidents of fraud or issues authorizations for the purpose of approving or  
46 processing negotiable instruments, electronic fund transfers, or similar  
47 methods of payment.  
48 (2) A deposit account information service company, which issues reports  
49 regarding account closures due to fraud, substantial overdrafts, ATM abuse,  
50 or other similar negative information regarding a consumer to inquiring

1 banks or other financial institutions for use only in reviewing a consumer  
2 request for a deposit account at the inquiring bank or financial institution.

3 (3) A consumer reporting agency that does all of the following:

- 4 a. Acts only to resell credit information by assembling and merging  
5 information contained in a database of one or more credit reporting  
6 agencies.  
7 b. Does not maintain a permanent database of credit information from  
8 which new credit reports are produced.

9 (o) A consumer reporting agency shall not charge a fee to put a security freeze in place,  
10 remove a freeze, or lift a freeze pursuant to subsection (d) or (j) of this section, provided that  
11 any such request is made electronically. If a request to put a security freeze in place is made by  
12 telephone or by mail, a consumer reporting agency may charge a fee to a consumer not to  
13 exceed three dollars (\$3.00), except that a consumer reporting agency may not charge any fee  
14 to a consumer over the age of 62, to a victim of identity theft who has submitted a copy of a  
15 valid investigative or incident report or complaint with a law enforcement agency about the  
16 unlawful use of the victim's identifying information by another person, or to the victim's  
17 spouse. A consumer reporting agency shall not charge an additional fee to a consumer who  
18 requests to temporarily lift for a specific period of time or to a specific third party, reinstate, or  
19 remove a security freeze. A consumer reporting agency shall not charge a consumer for a  
20 onetime reissue of a replacement personal identification number. A consumer reporting agency  
21 may charge a fee not to exceed three dollars (\$3.00) to provide any subsequent replacement  
22 personal identification number.

23 (o1) A parent or guardian of a minor residing in this State may, upon appropriate proof  
24 of identity and proof of their relationship to the minor, inquire of a nationwide consumer  
25 reporting agency, as defined in section 603(p) [15 U.S.C. § 1681a(p)] of the federal Fair Credit  
26 Reporting Act, 15 U.S.C. § 1681, et seq., as to the existence of a credit report for the minor of  
27 the parent or guardian. If a credit report for the minor exists, the nationwide consumer reporting  
28 agency shall make reasonable efforts to prevent providing a credit report on the minor until the  
29 minor reaches the age of majority. If a credit report for the minor does not exist, the nationwide  
30 consumer reporting agency has no obligation to create one.

31 (p) At any time that a consumer is required to receive a summary of rights required  
32 under section 609 of the federal Fair Credit Reporting Act, the following notice shall be  
33 included:

34 **"North Carolina Consumers Have the Right to Obtain a Security Freeze.**

35 You have a right to place a "security freeze" on your credit report pursuant to North  
36 Carolina law. The security freeze will prohibit a consumer reporting agency from releasing any  
37 information in your credit report without your express authorization. A security freeze can be  
38 requested in writing by first-class mail, by telephone, or electronically. You also may request a  
39 freeze by visiting the following Web site: [URL] or calling the following telephone number:  
40 [NUMBER].

41 The security freeze is designed to prevent credit, loans, and services from being approved in  
42 your name without your consent. However, you should be aware that using a security freeze to  
43 take control over who gains access to the personal and financial information in your credit  
44 report may delay, interfere with, or prohibit the timely approval of any subsequent request or  
45 application you make regarding new loans, credit, mortgage, insurance, rental housing,  
46 employment, investment, license, cellular phone, utilities, digital signature, Internet credit card  
47 transactions, or other services, including an extension of credit at point of sale.

48 The freeze will be placed within three business days if you request it by mail, or within 24  
49 hours if you request it by telephone or electronically. When you place a security freeze on your  
50 credit report, within three business days, you will be sent a personal identification number or a

1 password to use when you want to remove the security freeze, temporarily lift it, or lift it with  
2 respect to a particular third party.

3 A freeze does not apply when you have an existing account relationship and a copy of your  
4 report is requested by your existing creditor or its agents or affiliates for certain types of  
5 account review, collection, fraud control, or similar activities.

6 You should plan ahead and lift a freeze if you are actively seeking credit or services as a  
7 security freeze may slow your applications, as mentioned above.

8 You can remove a freeze, temporarily lift a freeze, or lift a freeze with respect to a  
9 particular third party by contacting the consumer reporting agency and providing all of the  
10 following:

- 11 (1) Your personal identification number or password,
- 12 (2) Proper identification to verify your identity, and
- 13 (3) Proper information regarding the period of time you want your report  
14 available to users of the credit report, or the third party with respect to which  
15 you want to lift the freeze.

16 A consumer reporting agency that receives a request from you to temporarily lift a freeze or  
17 to lift a freeze with respect to a particular third party on a credit report shall comply with the  
18 request no later than three business days after receiving the request by mail and no later than 15  
19 minutes after receiving a request by telephone or electronically. A consumer reporting agency  
20 may charge you up to three dollars (\$3.00) to institute a freeze if your request is made by  
21 telephone or by mail. A consumer reporting agency may not charge you any amount to freeze,  
22 remove a freeze, temporarily lift a freeze, or lift a freeze with respect to a particular third party,  
23 if any of the following are true:

- 24 (1) Your request is made electronically.
- 25 (2) You are over the age of 62.
- 26 (3) You are the victim of identity theft and have submitted a copy of a valid  
27 investigative or incident report or complaint with a law enforcement agency  
28 about the unlawful use of your identifying information by another person, or  
29 you are the spouse of such a person.

30 You have a right to bring a civil action against someone who violates your rights under the  
31 credit reporting laws. The action can be brought against a consumer reporting agency or a user  
32 of your credit report."

33 (q) A violation of this section is a violation of G.S. 75-1.1. (2005-414, s. 1; 2006-158,  
34 s. 1; 2009-355, s. 1; 2009-550, s. 5.)

### 36 **§ 75-64. Destruction of personal information records.**

37 (a) Any business that conducts business in North Carolina and any business that  
38 maintains or otherwise possesses personal information of a resident of North Carolina must  
39 take reasonable measures to protect against unauthorized access to or use of the information in  
40 connection with or after its disposal.

41 (b) The reasonable measures must include:

- 42 (1) Implementing and monitoring compliance with policies and procedures that  
43 require the burning, pulverizing, or shredding of papers containing personal  
44 information so that information cannot be practicably read or reconstructed.
- 45 (2) Implementing and monitoring compliance with policies and procedures that  
46 require the destruction or erasure of electronic media and other nonpaper  
47 media containing personal information so that the information cannot  
48 practicably be read or reconstructed.
- 49 (3) Describing procedures relating to the adequate destruction or proper disposal  
50 of personal records as official policy in the writings of the business entity.

1 (c) A business may, after due diligence, enter into a written contract with, and monitor  
2 compliance by, another party engaged in the business of record destruction to destroy personal  
3 information in a manner consistent with this section. Due diligence should ordinarily include  
4 one or more of the following:

- 5 (1) Reviewing an independent audit of the disposal business's operations or its  
6 compliance with this statute or its equivalent.
- 7 (2) Obtaining information about the disposal business from several references or  
8 other reliable sources and requiring that the disposal business be certified by  
9 a recognized trade association or similar third party with a reputation for  
10 high standards of quality review.
- 11 (3) Reviewing and evaluating the disposal business's information security  
12 policies or procedures or taking other appropriate measures to determine the  
13 competency and integrity of the disposal business.

14 (d) A disposal business that conducts business in North Carolina or disposes of personal  
15 information of residents of North Carolina must take all reasonable measures to dispose of  
16 records containing personal information by implementing and monitoring compliance with  
17 policies and procedures that protect against unauthorized access to or use of personal  
18 information during or after the collection and transportation and disposing of such information.

19 (e) This section does not apply to any of the following:

- 20 (1) Any bank or financial institution that is subject to and in compliance with  
21 the privacy and security provision of the Gramm Leach Bliley Act, 15  
22 U.S.C. § 6801, et seq., as amended.
- 23 (2) Any health insurer or health care facility that is subject to and in compliance  
24 with the standards for privacy of individually identifiable health information  
25 and the security standards for the protection of electronic health information  
26 of the Health Insurance Portability and Accountability Act of 1996.
- 27 (3) Any consumer reporting agency that is subject to and in compliance with the  
28 Federal Credit Reporting Act, 15 U.S.C. § 1681, et seq., as amended.

29 (f) A violation of this section is a violation of G.S. 75-1.1, but any damages assessed  
30 against a business because of the acts or omissions of its nonmanagerial employees shall not be  
31 trebled as provided in G.S. 75-16 unless the business was negligent in the training, supervision,  
32 or monitoring of those employees. No private right of action may be brought by an individual  
33 for a violation of this section unless such individual is injured as a result of the violation.  
34 (2005-414, s. 1.)

### 36 **§ 75-65. Protection from security breaches.**

37 (a) Any business that owns or licenses personal information of residents of North  
38 Carolina or any business that conducts business in North Carolina that owns or licenses  
39 personal information in any form (whether computerized, paper, or otherwise) shall provide  
40 notice to the affected person that there has been a security breach following discovery or  
41 notification of the breach. The disclosure notification shall be made without unreasonable  
42 delay, consistent with the legitimate needs of law enforcement, as provided in subsection (c) of  
43 this section, and consistent with any measures necessary to determine sufficient contact  
44 information, determine the scope of the breach and restore the reasonable integrity, security,  
45 and confidentiality of the data system. For the purposes of this section, personal information  
46 shall not include electronic identification numbers, electronic mail names or addresses, Internet  
47 account numbers, Internet identification names, parent's legal surname prior to marriage, or a  
48 password unless this information would permit access to a person's financial account or  
49 resources.

50 (b) Any business that maintains or possesses records or data containing personal  
51 information of residents of North Carolina that the business does not own or license, or any

1 business that conducts business in North Carolina that maintains or possesses records or data  
2 containing personal information that the business does not own or license shall notify the owner  
3 or licensee of the information of any security breach immediately following discovery of the  
4 breach, consistent with the legitimate needs of law enforcement as provided in subsection (c) of  
5 this section.

6 (c) The notice required by this section shall be delayed if a law enforcement agency  
7 informs the business that notification may impede a criminal investigation or jeopardize  
8 national or homeland security, provided that such request is made in writing or the business  
9 documents such request contemporaneously in writing, including the name of the law  
10 enforcement officer making the request and the officer's law enforcement agency engaged in  
11 the investigation. The notice required by this section shall be provided without unreasonable  
12 delay after the law enforcement agency communicates to the business its determination that  
13 notice will no longer impede the investigation or jeopardize national or homeland security.

14 (d) The notice shall be clear and conspicuous. The notice shall include all of the  
15 following:

- 16 (1) A description of the incident in general terms.
- 17 (2) A description of the type of personal information that was subject to the  
18 unauthorized access and acquisition.
- 19 (3) A description of the general acts of the business to protect the personal  
20 information from further unauthorized access.
- 21 (4) A telephone number for the business that the person may call for further  
22 information and assistance, if one exists.
- 23 (5) Advice that directs the person to remain vigilant by reviewing account  
24 statements and monitoring free credit reports.
- 25 (6) The toll-free numbers and addresses for the major consumer reporting  
26 agencies.
- 27 (7) The toll-free numbers, addresses, and Web site addresses for the Federal  
28 Trade Commission and the North Carolina Attorney General's Office, along  
29 with a statement that the individual can obtain information from these  
30 sources about preventing identity theft.

31 (e) For purposes of this section, notice to affected persons may be provided by one of  
32 the following methods:

- 33 (1) Written notice.
- 34 (2) Electronic notice, for those persons for whom it has a valid e-mail address  
35 and who have agreed to receive communications electronically if the notice  
36 provided is consistent with the provisions regarding electronic records and  
37 signatures for notices legally required to be in writing set forth in 15 U.S.C.  
38 § 7001.
- 39 (3) Telephonic notice provided that contact is made directly with the affected  
40 persons.
- 41 (4) Substitute notice, if the business demonstrates that the cost of providing  
42 notice would exceed two hundred fifty thousand dollars (\$250,000) or that  
43 the affected class of subject persons to be notified exceeds 500,000, or if the  
44 business does not have sufficient contact information or consent to satisfy  
45 subdivisions (1), (2), or (3) of this subsection, for only those affected  
46 persons without sufficient contact information or consent, or if the business  
47 is unable to identify particular affected persons, for only those unidentifiable  
48 affected persons. Substitute notice shall consist of all the following:
  - 49 a. E-mail notice when the business has an electronic mail address for  
50 the subject persons.

- 1                   b.       Conspicuous posting of the notice on the Web site page of the  
2                                   business, if one is maintained.  
3                   c.       Notification to major statewide media.

4       (e1)    In the event a business provides notice to an affected person pursuant to this section,  
5 the business shall notify without unreasonable delay the Consumer Protection Division of the  
6 Attorney General's Office of the nature of the breach, the number of consumers affected by the  
7 breach, steps taken to investigate the breach, steps taken to prevent a similar breach in the  
8 future, and information regarding the timing, distribution, and content of the notice.

9       (f)    In the event a business provides notice to more than 1,000 persons at one time  
10 pursuant to this section, the business shall notify, without unreasonable delay, the Consumer  
11 Protection Division of the Attorney General's Office and all consumer reporting agencies that  
12 compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. §  
13 1681a(p), of the timing, distribution, and content of the notice.

14       (g)    Any waiver of the provisions of this Article is contrary to public policy and is void  
15 and unenforceable.

16       (h)    A financial institution that is subject to and in compliance with the Federal  
17 Interagency Guidance Response Programs for Unauthorized Access to Consumer Information  
18 and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal  
19 Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of  
20 the Currency, and the Office of Thrift Supervision; or a credit union that is subject to and in  
21 compliance with the Final Guidance on Response Programs for Unauthorized Access to  
22 Member Information and Member Notice, issued on April 14, 2005, by the National Credit  
23 Union Administration; and any revisions, additions, or substitutions relating to any of the said  
24 interagency guidance, shall be deemed to be in compliance with this section.

25       (i)    A violation of this section is a violation of G.S. 75-1.1. No private right of action  
26 may be brought by an individual for a violation of this section unless such individual is injured  
27 as a result of the violation.

28       (j)    Causes of action arising under this Article may not be assigned. (2005-414, s. 1;  
29 2009-355, s. 2; 2009-573, s. 10.)  
30

31 **§ 75-66. Publication of personal information.**

32       (a)    It shall be a violation of this section for any person to knowingly broadcast or  
33 publish to the public on radio, television, cable television, in a writing of any kind, or on the  
34 Internet, the personal information of another with actual knowledge that the person whose  
35 personal information is disclosed has previously objected to any such disclosure.

36       (b)    As used in this section, "person" means any individual, partnership, corporation,  
37 trust, estate, cooperative, association, or other entity, but does not include any:

- 38               (1)    Government, government subdivision or agency.  
39               (2)    Entity subject to federal requirements pursuant to the Health Insurance  
40                    Portability and Accountability Act (HIPAA).

41       (c)    As used in this section, the phrase "personal information" includes a person's first  
42 name or first initial and last name in combination with any of the following information:

- 43               (1)    Social security or employer taxpayer identification numbers.  
44               (2)    Drivers license, State identification card, or passport numbers.  
45               (3)    Checking account numbers.  
46               (4)    Savings account numbers.  
47               (5)    Credit card numbers.  
48               (6)    Debit card numbers.  
49               (7)    Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).  
50               (8)    Digital signatures.

- 1           (9) Any other numbers or information that can be used to access a person's  
2           financial resources.
- 3           (10) Biometric data.
- 4           (11) Fingerprints.
- 5           (12) Passwords.
- 6       (d) Nothing in this section shall:
- 7           (1) Limit the requirements or obligations under any other section of this Article,  
8           including, but not limited to, G.S. 75-62 and G.S. 75-65.
- 9           (2) Apply to the collection, use, or release of personal information for a purpose  
10          permitted, authorized, or required by any federal, state, or local law,  
11          regulation, or ordinance.
- 12       (e) Any person whose property or person is injured by reason of a violation of this  
13       section may sue for civil damages pursuant to the provisions of G.S. 1-539.2C. (2007-534, s.  
14       2.)
- 15
- 16   § 75-67. Reserved for future codification purposes.
- 17
- 18   § 75-68. Reserved for future codification purposes.
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- 20   § 75-69. Reserved for future codification purposes.
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- 22   § 75-70. Reserved for future codification purposes.
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- 24   § 75-71. Reserved for future codification purposes.
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- 26   § 75-72. Reserved for future codification purposes.
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- 28   § 75-73. Reserved for future codification purposes.
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- 30   § 75-74. Reserved for future codification purposes.
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- 32   § 75-75. Reserved for future codification purposes.
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- 34   § 75-76. Reserved for future codification purposes.
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- 36   § 75-77. Reserved for future codification purposes.
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- 38   § 75-78. Reserved for future codification purposes.
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- 40   § 75-79. Reserved for future codification purposes.