

Fair and Accurate Credit Transactions Act (FACTA) of 2004

This is an excerpt from the FACTA and is not the entire statute. You should include a copy of this excerpt with all correspondence regarding your identity theft. For a complete copy of this statute, enter "FACTA" in your favorite Internet search engine.

SEC 151. Summary of Rights of Identity Theft Victims

(a) In General -

(1) Summary – Section 609 of the Fair Credit Reporting Act (15 USC 1681g) is amended by adding at the end the following:

(d) Summary of Rights of Identity Theft Victims - -

(1) In general – The Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prepare a model summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor.

(2) Summary – Beginning 60 days after the date on which the model summary of rights is prescribed in final form by the Commission pursuant to paragraph (1), if any consumer contacts a consumer credit reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic funds transfer, or an account or transaction at or with a financial institution or other creditor, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with a summary of rights that contains all of the information required by the Commission under paragraph (1), and information on how to contact the Commission to obtain more detailed information.

(e) Information Available to Victims –

(1) In general – For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 30 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to –

(A) the victim;

- (B) any Federal, State, or local government law enforcement agency or officer specified by the victim in such a request; or
 - (C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.
- (2) Verification of identity and claim. Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, otherwise has a high degree of confidence that it knows the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity –
 - (A) as proof of positive identification of the victim, at the election of the business entity
 - (i) the presentation of a government-issued identification card;
 - (ii) personally identifying information of the same type as was provided to the business entity to the business entity by the unauthorized person; or
 - (iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and
 - (B) as proof of a claim of identity theft, at the election of the business entity –
 - (i) a copy of the a police report evidencing the claim of the victim of identity theft; and
 - (ii) a properly completed – copy of a standardized affidavit of identity theft developed and made available by the Commission; or
 - (l) an affidavit of fact that is acceptable to the business entity for that purpose
- (3) Procedures – The request of a victim under paragraph (1) shall –
 - (A) be in writing
 - (B) be mailed to an address specified by the business entity, if any; and
 - (C) if asked by the business entity, include relevant information about any transaction alleged to be the result of identity theft to facilitate compliance with this section including –
 - (i) if known by the victim (or if readily obtainable by the Victim), the date of the application or transaction;
 - (ii) if known by the victim (or if readily obtainable by the victim), any other identifying information such as an account or transaction number
- (4) No charge to victim – information required to be provided under Paragraph (1) shall be so provided without charge

- (5) Authority to decline to provide information – A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that –
- (A) this subsection does not require disclosure of the information
 - (B) after reviewing the information provided pursuant to paragraph (2), the business entity does not have a high degree of confidence in knowing the true identity of the individual requesting the information;
 - (C) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or
 - (D) the information requested is Internet navigational data or similar information about a person’s visit to a website or online service.