

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1279
RATIFIED BILL

AN ACT TO CREATE THE CRIMINAL OFFENSE OF FINANCIAL IDENTITY FRAUD AND TO ALLOW FOR THE RECOVERY OF DAMAGES FOR FINANCIAL IDENTITY FRAUD.

The General Assembly of North Carolina enacts:

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

**"ARTICLE 19C.
"FINANCIAL IDENTITY FRAUD.**

"§ 14-113.20. Financial identity fraud.

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

(b) The term 'identifying information' as used in this section includes the following:

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

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

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

"§ 14-113.21. Venue of offenses.

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

"§ 14-113.22. Punishment and liability.

(a) A violation of G.S. 14-113.20 is punishable as a Class H felony, except if the victim suffers arrest, detention, or conviction as a proximate result of the offense, then the violation is punishable as a Class G felony.

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

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

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

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

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

In the General Assembly read three times and ratified this the 19th day of July, 1999.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19