

California Identity Theft Laws

Compiled by the Privacy Rights Clearinghouse and Consumers Union
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Credit report can be corrected with a police report

If the victim submits police report to a credit bureau listing the fraudulent accounts, the credit bureau must promptly block the information about those accounts and inform the credit grantors that the information has been removed. California Civil Code § 1785.16(k)

Fraud alert

Credit bureau must place fraud alert within five business days of receipt of the alert from the consumer. California Civil Code § 1785.11.1

Monthly free credit reports for identity theft victims

An identity theft victim who provides the credit bureau with a copy of a police report is entitled to 12 free credit reports, one per month, in the 12 months from the date of the police report. California Civil Code § 1785.15.3 (Effective July 1, 2003)

Security freeze

Credit bureau must enable consumer to establish a "freeze," prohibiting the credit bureau from giving report to anyone without the consumer's consent. California Civil Code §§ 1785.11.2 (effective Jan. 1, 2003)

Statement of consumer rights from credit bureau

Credit bureau must give consumers a statement of statutory rights with respect to credit reporting. California Civil Code §§ 1785(f) and 1785.15.3

Credit reporting agency must match information

Where prospective user of a consumer report is a retail seller and intends to issue credit in person to a consumer who applied in person, credit reporting agency must match at least three categories of information. California Civil Code § 1785.14(a)(1)

Creditor must verify a change of address on a mailed solicitation

Where credit is to be extended by mail pursuant to a mailed solicitation, requirement to mail the extension of credit to the same address as the solicitation

unless the creditor verifies any address change by contacting the consumer.
California Civil Code § 1785.14(a)(3) (Probably preempted as to federal chartered financial institutions by “red flag” guidelines section of H.R. 2622, sec. 206)

User of a credit report must verify that there was no ID theft where address is mismatched

Requirement for user of credit report to verify requested extension of credit is not an instance of identity theft, where the address on the application does not match the address on the credit report. Civil Code § 1785.20.3 06

Address verification by creditor

Credit issuer must verify address if both of the following occur: an application of credit shows a different address than the one on the preapproved offer, and a request for an additional credit card comes within 10 days of a request for a change of address. California Civil Code § 1747.06

Truncation of credit card number on transaction slip

No more than the last 5 digits of a credit card number may be printed on electronic receipts. California Civil Code § 1747.9 (Effective January 1, 2004)

Contact info must be included in credit report

Credit report must contain names, addresses, and if provided, phone numbers for customer service, of those who furnished information from the credit report.
California Civil Code § 1785.10(c)

Right to remove name

Consumer has right to remove name from credit card solicitation lists furnished by the credit bureau. California Civil Code § 1785.11.8

No forwarding of instant loan checks

Requirement that “instant loan checks” be mailed in envelope that does not indicate a negotiable instrument is enclosed and that is marked “do not forward”:
California Financial Code § 22342

Credit reporting agency must get certification of identification from retailer

Credit reporting agency doesn't meet requirement to take reasonable steps to verify the identity of user of a credit report where the prospective user of a consumer report is a retail seller and intends to issue credit in person to a consumer who applied in person, unless the retail seller certifies in writing to the

credit reporting agency that the seller instructs employees to inspect photo identification at the time of application. California Civil Code § 1785.14(a)(2)

Crime defined

Use of personal information for unlawful purposes is a misdemeanor / felony “wobbler.” Requires notation of court record if an imposter is convicted in victim’s name. Penal Code § 530.5

Penalties for trafficking in personal information

Every person who, with the intent to defraud, acquires, transfers, or retains possession of personal identifying information of another person, is guilty of a crime punishable by up to \$1,000 and one year in county jail. California Penal Code § 530.5

Local police department must take a victim’s police report

Local police department must take a police report, even if crime is committed elsewhere. California Penal Code § 530.6

Clearing up criminal identity theft

Judicial process for clearing your name –California Penal Code § 530.6(b)
Data base of criminal ID theft victims – California Penal Code § 530.7
California Attorney General ID Theft Hotline-- (888) 880-0240

Access to records for victims and law enforcement

Banks, public utilities, and certain other companies must provide both the victim and law enforcement (on request) with copies of applications, checks, account statements, and records of transactions initiated by an imposter. California Penal Code § 530.8

Debt collection

Creditor cannot sell a debt to a debt collector once the individual has reported to the credit bureau that the debt resulted from fraud. California Civil Code § 1785.16.2

Victim of identity theft may seek an injunction against a creditor or debt collector who pursues payment from the victim of a debt incurred by a thief. California Civil Code §§ 1798.92-97

Destruction of customer records -- the “shredding” law

Businesses are required to take reasonable steps to destroy records containing personal information upon disposal of the records by shredding, erasing, or modifying the information to make it unreasonable. California Civil Code §§ 1798.80-82

Hacker law -- disclosure of computer security breaches

Requires business and government agencies to notify individuals when unencrypted personal information in the categories of Social Security Number, driver’s license number, account number, or credit or debit card number has been accessed in a computer security breach. California Civil Code § 1798.29

Confidentiality of Social Security Numbers

Individuals & commercial entities may not:

- publicly display or post SSNs
 - print SSNs on ID cards or badges
 - require people to transmit SSNs over the Internet unless the connection is secure or the number is encrypted
 - require people to use the SSN to logon to the Internet without a password
 - print SSNs on mailed documents, unless required by state or federal law
- California Civil Code § 1798.85 (Phased in from July 2002 - July 2005)

Birth and death certificates

Sworn statement required for issuance of certified copies of birth or death records. California Health & Safety Code § 103526

Credit card consumer may not be required to pay by check

Prohibition on recording credit card number where consumer pays by negotiable instrument (check). California Civil Code § 1725

Personal info may not be required to use credit card

Person accepting credit card may not record personal information. California Civil Code § 1748.8

Right to sue to clear your name

Right of ID theft victim to bring action or assert defense against anyone claiming a right to money or property in connection with a transaction procured through ID theft. California Civil Code § 1798.93

Notice that warranty card is unnecessary

Requirement that “warranty” cards clearly and conspicuously disclose that the card is a product registration card and failure to complete and return the card does not affect warranty rights. California Civil Code § 1793.1

*This material was adapted by Gail Hillebrand of Consumers Union from materials first prepared by Beth Givens of the Privacy Rights Clearinghouse. For information about the Privacy Rights Clearinghouse, including tips for victims of identity theft, see www.privacyrights.org.

