

## **IC 24-5-26**

### **Chapter 26. Identity Theft**

#### **IC 24-5-26-1**

##### **"Identity theft"**

Sec. 1. As used in this chapter, "identity theft" means:

- (1) identity deception (IC 35-43-5-3.5);
- (2) synthetic identity deception (IC 35-43-5-3.8); or
- (3) a substantially similar crime committed in another jurisdiction.

*As added by P.L.137-2009, SEC.8.*

#### **IC 24-5-26-2**

##### **Duties concerning a victim of identity theft**

Sec. 2. A person shall not do any of the following in the conduct of trade or commerce:

(1) Deny credit or public utility service to or reduce the credit limit of a consumer solely because the consumer was a victim of identity theft, if the person had prior knowledge that the consumer was a victim of identity deception or synthetic identity deception. A consumer is presumed to be a victim of identity theft for purposes of this subdivision if the consumer provides to the person:

(A) a copy of a police report evidencing the claim of the victim of identity theft; and

(B) either:

- (i) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission under 15 U.S.C. 1681g; or
- (ii) an affidavit of fact that is acceptable to the person for that purpose.

This subdivision does not prohibit denial of credit or public utility service if a consumer has placed a security freeze on the consumer's consumer report and does not wish to temporarily lift the freeze for purposes of the credit or public utility service request or application.

(2) Solicit to extend credit to a consumer who does not have an existing line of credit, or has not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that includes personal identifying information other than the recipient's name, address, and a partial, encoded, or truncated personal identifying number. In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for the amount of the instrument if the instrument is used by an unauthorized user and for any fees assessed to the consumer if the instrument is dishonored.

(3) Solicit to extend credit to a consumer who does not have a current credit card, or has not had or applied for a credit card

within the preceding year, through the use of an unsolicited credit card sent to the consumer. In addition to any other penalty or remedy under this chapter or under IC 24-5-0.5, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for any charges if the credit card is used by an unauthorized user and for any interest or finance charges assessed to the consumer.

(4) Extend credit to a consumer without exercising reasonable procedures to verify the identity of that consumer. Compliance with regulations issued for depository institutions, and to be issued for other financial institutions, by the United States Department of Treasury under Section 326 of the USA PATRIOT Act, 31 U.S.C. 5318, is considered compliance with this subdivision. This subdivision does not apply to a purchase of a credit obligation in an acquisition, a merger, a purchase of assets, or an assumption of liabilities or any change to or review of an existing credit account.

*As added by P.L.137-2009, SEC.8.*

### **IC 24-5-26-3**

#### **Violation; remedies**

Sec. 3. A person who knowingly or intentionally violates this chapter commits a deceptive act that is actionable by the attorney general under IC 24-5-0.5-4 and is subject to the penalties and remedies available to the attorney general under IC 24-5-0.5. This section does not affect the availability of any civil remedy for a violation of this chapter, IC 24-5-0.5, or any other state or federal law.

*As added by P.L.137-2009, SEC.8.*