**South Carolina General Assembly**

120th Session, 2013-2014

**A15, R21, H3248**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rutherford, King, Loftis, Gilliard, Jefferson and Williams

Document Path: l:\council\bills\ms\7070ahb13.docx

Introduced in the House on January 9, 2013

Introduced in the Senate on January 17, 2013

Last Amended on April 9, 2013

Passed by the General Assembly on April 17, 2013

Governor's Action: April 23, 2013, Signed

Summary: Financial transaction card crime

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/9/2013 House Introduced, read first time, placed on calendar without reference ([House Journal‑page 10](file:///h%3A%5CHJ%20Archive%5C2013%5C01-09-13.docx))

 1/9/2013 House Member(s) request name added as sponsor: Loftis ([House Journal‑page 10](file:///h%3A%5CHJ%20Archive%5C2013%5C01-09-13.docx))

 1/15/2013 House Debate adjourned ([House Journal‑page 16](file:///h%3A%5CHJ%20Archive%5C2013%5C01-15-13.docx))

 1/15/2013 House Member(s) request name added as sponsor: Gilliard

 1/16/2013 House Amended ([House Journal‑page 20](file:///h%3A%5CHJ%20Archive%5C2013%5C01-16-13.docx))

 1/16/2013 House Read second time ([House Journal‑page 20](file:///h%3A%5CHJ%20Archive%5C2013%5C01-16-13.docx))

 1/16/2013 House Roll call Yeas‑109 Nays‑0 ([House Journal‑page 23](file:///h%3A%5CHJ%20Archive%5C2013%5C01-16-13.docx))

 1/16/2013 House Member(s) request name added as sponsor: Jefferson, Williams

 1/17/2013 House Read third time and sent to Senate ([House Journal‑page 17](file:///h%3A%5CHJ%20Archive%5C2013%5C01-17-13.docx))

 1/17/2013 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2013%5C01-17-13.docx))

 1/17/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2013%5C01-17-13.docx))

 1/28/2013 Senate Referred to Subcommittee: Hutto (ch), Corbin, Young

 3/20/2013 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 15](file:///h%3A%5CSJ%20Archive%5C2013%5C03-20-13.docx))

 4/9/2013 Senate Committee Amendment Adopted ([Senate Journal‑page 30](file:///h%3A%5CSJ%20Archive%5C2013%5C04-09-13.docx))

 4/9/2013 Senate Read second time ([Senate Journal‑page 30](file:///h%3A%5CSJ%20Archive%5C2013%5C04-09-13.docx))

 4/9/2013 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 30](file:///h%3A%5CSJ%20Archive%5C2013%5C04-09-13.docx))

 4/10/2013 Senate Read third time and returned to House with amendments ([Senate Journal‑page 30](file:///h%3A%5CSJ%20Archive%5C2013%5C04-10-13.docx))

 4/17/2013 House Concurred in Senate amendment and enrolled ([House Journal‑page 45](file:///h%3A%5CHJ%20Archive%5C2013%5C04-17-13.docx))

 4/17/2013 House Roll call Yeas‑110 Nays‑0 ([House Journal‑page 45](file:///h%3A%5CHJ%20Archive%5C2013%5C04-17-13.docx))

 4/18/2013 Ratified R 21

 4/23/2013 Signed By Governor

 4/29/2013 Effective date 04/23/13

 4/30/2013 Act No. 15

**VERSIONS OF THIS BILL**

[1/9/2013](file:///p%3A%5Cpprever%5C2013-14%5C3248_20130109.docx)

[1/9/2013-A](file:///p%3A%5Cpprever%5C2013-14%5C3248_20130109A.docx)

[1/16/2013](file:///p%3A%5Cpprever%5C2013-14%5C3248_20130116.docx)

[3/20/2013](file:///p%3A%5Cpprever%5C2013-14%5C3248_20130320.docx)

[4/9/2013](file:///p%3A%5Cpprever%5C2013-14%5C3248_20130409.docx)

(A15, R21, H3248)

**AN ACT TO AMEND SECTION 16‑13‑510, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FINANCIAL IDENTITY FRAUD, SO AS TO BROADEN THE SCOPE OF FINANCIAL IDENTITY FRAUD AND REVISE THE DEFINITION OF “PERSONAL IDENTIFYING INFORMATION”, TO DEFINE THE TERM “FINANCIAL RESOURCES”, TO PROVIDE VENUE FOR PROSECUTION OF AN IDENTITY FRAUD OFFENSE, AND TO ADD CONFORMING LANGUAGE CONTAINED IN FINANCIAL TRANSACTION CARD CRIME TO PROVIDE THAT IT IS NOT A DEFENSE WHEN SOME OF THE ACTS OF THE CRIME DID NOT OCCUR IN THIS STATE OR WITHIN A CITY, COUNTY, OR LOCAL JURISDICTION; TO AMEND SECTION 37‑20‑130, RELATING TO THE INITIATION OF A LAW ENFORCEMENT INVESTIGATION OF IDENTITY THEFT, SO AS TO DELETE THE LANGUAGE ALLOWING REFERRAL OF THE MATTER TO THE LAW ENFORCEMENT AGENCY WHERE THE CRIME WAS COMMITTED FOR INVESTIGATION; AND TO AMEND SECTION 39‑1‑90, RELATING TO BREACH OF CERTAIN SECURITY AND BUSINESS DATA AND NOTICE TO THE CONSUMER PROTECTION DIVISION, SO AS TO REVISE THE DEFINITION OF “PERSONAL IDENTIFYING INFORMATION”.**

Be it enacted by the General Assembly of the State of South Carolina:

**Financial identify fraud, offense revised**

SECTION 1. Section 16‑13‑510 of the 1976 Code, as last amended by Act 190 of 2008, is further amended to read:

 “Section 16‑13‑510. (A) It is unlawful for a person to commit the offense of financial identity fraud or identity fraud.

 (B) A person is guilty of financial identity fraud when the person, without the authorization or permission of another individual, and with the intent of unlawfully:

 (1) appropriating the financial resources of the other individual to the person’s own use or the use of a third party;

 (2) devising a scheme or artifice to defraud; or

 (3) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises obtains or records identifying information which would assist in accessing the financial records of the other individual or accesses or attempts to access the financial resources of the other individual through the use of identifying information as defined in subsection (D).

 (C) A person is guilty of identity fraud when the person uses identifying information, as defined in subsection (D), of another individual for the purpose of obtaining employment or avoiding identification by a law enforcement officer, criminal justice agency, or another governmental agency, including, but not limited to, law enforcement, detention, and correctional agencies or facilities.

 (D) ‘Personal identifying information’ includes, but is not limited to:

 (1) social security numbers;

 (2) driver’s license numbers or state identification card numbers issued instead of a driver’s license;

 (3) checking account numbers;

 (4) savings account numbers;

 (5) credit card numbers;

 (6) debit card numbers;

 (7) personal identification (PIN) numbers;

 (8) electronic identification numbers;

 (9) digital signatures;

 (10) dates of birth;

 (11) current or former names, including first and last names, middle and last names, or first, middle, and last names, but only when the names are used in combination with, and linked to, other identifying information provided in this section;

 (12) current or former addresses, but only when the addresses are used in combination with, and linked to, other identifying information provided in this section; or

 (13) other numbers, passwords, or information which may be used to access a person’s financial resources, numbers, or information issued by a governmental or regulatory entity that uniquely will identify an individual or an individual’s financial resources.

 (E) ‘Financial resources’ includes:

 (1) existing money and financial wealth contained in a checking account, savings account, line of credit, or otherwise;

 (2) a pension plan, retirement fund, annuity, or other fund which makes payments monthly or periodically to the recipient; and

 (3) the establishment of a line of credit or an amount of debt whether by loan, credit card, or otherwise for the purpose of obtaining goods, services, or money.

 (F) A person who violates this section is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The court may order restitution to the victim pursuant to the provisions of Section 17‑25‑322.

 (G) Venue for the prosecution of offenses pursuant to this section is in the county in which:

 (1) the victim resided at the time the information was obtained or used; or

 (2) the information is obtained or used.

 (H) In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.”

**Identity theft investigations**

SECTION 2. Section 37‑20‑130 of the 1976 Code, as added by Act 190 of 2008, is amended to read:

 “Section 37‑20‑130. A person who learns or reasonably suspects that the person is the victim of identity theft may initiate a law enforcement investigation by reporting to a local law enforcement agency that has jurisdiction over the person’s actual legal residence. The law enforcement agency shall take the report, provide the complainant with a copy of the report, and begin an investigation.”

**Breach of security and business data, definition revised**

SECTION 3. Section 39‑1‑90(D) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

 “(D) For purposes of this section:

 (1) ‘Breach of the security of the system’ means unauthorized access to and acquisition of computerized data that was not rendered unusable through encryption, redaction, or other methods that compromises the security, confidentiality, or integrity of personal identifying information maintained by the person, when illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to a resident. Good faith acquisition of personal identifying information by an employee or agent of the person for the purposes of its business is not a breach of the security of the system if the personal identifying information is not used or subject to further unauthorized disclosure.

 (2) ‘Person’ has the same meaning as in Section 37‑20‑110(10).

 (3) ‘Personal identifying information’ means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of this State, when the data elements are neither encrypted nor redacted:

 (a) social security number;

 (b) driver’s license number or state identification card number issued instead of a driver’s license;

 (c) financial account number, or credit card or debit card number in combination with any required security code, access code, or password that would permit access to a resident’s financial account; or

 (d) other numbers or information which may be used to access a person’s financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

 The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local governmental records lawfully made available to the general public.”

**Savings clause**

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 18th day of April, 2013.

Approved the 23rd day of April, 2013.

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