Security Breach Notice Report

[A review of the requirements of the Financial Identity Fraud and Identity Theft Protection Act and the security breach notices received by the Department.]

August 2015

INTRODUCTION

According to Federal Bureau of Investigation statistics, identity theft is one of the nation's fastest growing crimes. In South Carolina, the crimes of both financial identity fraud and identity fraud are broadly defined. Financial identity fraud occurs when someone uses the financial resources of another person without authorization or permission. Financial resources can include existing accounts, pension plans, retirement funds or the opening of loans, credit cards, or other amounts of debt for the purposes of obtaining goods, services or money. Identity fraud occurs when a person uses the identifying information of another person to obtain employment or avoid identification by law enforcement or another governmental agency.

The latest information from the Federal Trade Commission (FTC) Consumer Sentinel Network Data Book ranks identity theft as the number one complaint category, constituting 13% of the repository's overall 2.5 million complaints received from January 1 – December 31, 2014 (date released February 2015). The FTC's report shows South Carolina as number 30 in the national rankings with consumers filing 3,540 identity theft related complaints. Government documents/benefits fraud was the most common form of reported identity theft both at the national level (approximately 39%) as well as for South Carolina (35%).

To aid in combating identity theft, South Carolina passed the Financial Identity Fraud and Identity Theft Protection Act[1] ("the Act") in 2008. While other states had certain consumer protections in place relating to identity theft, South Carolina crafted one of the most consumer-friendly and comprehensive bills of its kind in the nation. In addition to making identity theft a crime, putting restrictions on the use of social security numbers and limiting information on credit card receipts, the Act includes provisions on criminal penalties, security freezes, credit reports, records disposal and security breaches.

In continued efforts to safeguard the personal information of South Carolina residents, the Act was amended in 2013 and 2014. The 2013 amendments revised definitions relating to criminal offenses and prosecutions, made the process less tedious for identity theft victims to file police reports, and revised the definition of personal identifying information (PII). The amendment in 2014 created a class of "protected consumers" in order to protect children and vulnerable adults from identity theft by establishing a process to create a credit record for the purpose of placing a preemptive security freeze.

The South Carolina Department of Consumer Affairs (SCDCA) launched its Identity Theft Unit on October 1, 2013. South Carolina consumers who have identity theft questions or think they may be victims can contact the Identity Theft Unit for ongoing guidance throughout the process of mitigating the negative effects of their

[1] http://www.scstatehouse.gov/sess117_2007-2008/bills/453.htm

particular identity theft situation. The Identity Theft Unit also handles administration and enforcement of the Act and receives security breach notices. This report provides a summary of the Act and an overview of the security breach notices received by SCDCA.

FINANCIAL IDENTITY FRAUD AND IDENTITY THEFT PROTECTION ACT

The majority of the Act became effective on December 31, 2008. The law contains rights for consumers as well as requirements for public bodies and businesses.

SECURITY FREEZE

A primary provision of the bill allows consumers to place a security freeze on their credit reports, which prevents someone from accessing the report without the consumer's permission. Consumers may place a freeze on their report, including those wanting to take proactive measures to protect themselves against identity thieves. The security freeze can be "thawed" or temporarily removed for a specified time or creditor. South Carolina is one of just a few states that provide this service to all consumers, free of charge.

PROTECTED CONSUMER FREEZE

Effective January 1, 2015, an amendment to the SC Consumer Protection Code provides certain measures to safeguard a class of "protected consumers" from becoming victims of identity theft. The new provision allows parents, guardians, and representatives to create and freeze a protected consumer's credit file for free. This line of defense is for protected consumers who do not currently have a credit report. Upon receiving a request on behalf of a protected consumer, the credit reporting agency (CRA) will create a credit file in that consumer's name and freeze it. Consumers must contact each CRA to place this freeze.

CREDIT REPORTS

The Act provides consumers with rights in the area of credit reports that mirror those in the Federal Fair Credit Reporting Act. Consumers may dispute inaccurate or untimely information on their reports. If the information is determined inaccurate, the credit reporting agency must remove it from the report and notify anyone who accessed the report over the last six months of the mistake. If the credit reporting agency disagrees with the dispute, they must supply the consumer with proof the information is accurate.

RECORDS DISPOSAL

Under the Act, businesses and public bodies must properly dispose of records containing a consumer's personal identifying information (PII). PII consists of a consumer's social security number, driver's license number, checking or savings account number, credit or debit card number, personal identification (PIN) number, electronic identification number, digital signature, or date of birth. PII also consists of a person's first (or middle) name plus the last name, or current or former addresses, when used in combination with or linked to the other PII listed above. These records must be disposed of "in a manner that makes it [PII] unreadable or undecipherable."

SECURITY BREACHES

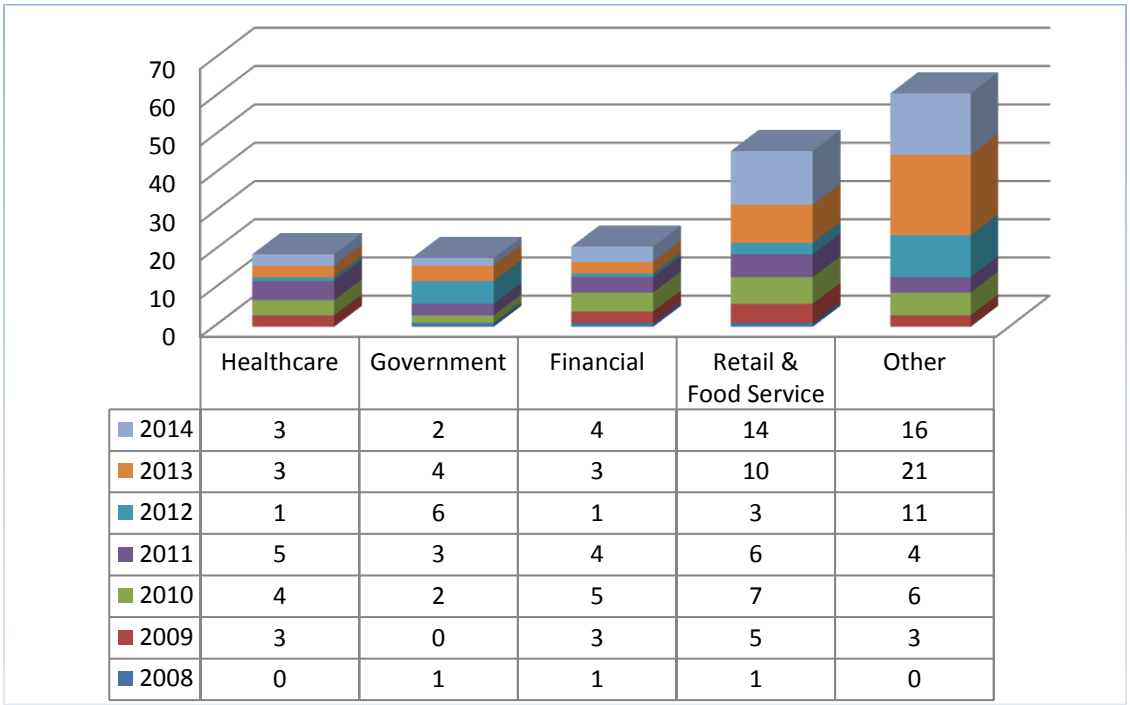
State agencies and businesses who maintain personal information must notify consumers when this information may have been compromised or otherwise breached. A security breach is the unauthorized access to items containing PII when the illegal use of the PII has occurred or is likely to occur. If more than 1,000 South Carolina residents are affected by a breach at one time, the business or state agency must also notify the major credit reporting agencies and SCDCA. Security breach notices to SCDCA are required to contain the timing, distribution and content of the breach notice sent to the affected consumers. This portion of the Act became effective July 1, 2009.

SECURITY BREACH NOTICES

The information provided in the following charts was compiled from the notification letters sent to SCDCA by companies and governmental entities reporting security breaches from July 2008 through December 2014. While disclosure of security breaches to SCDCA were only required beginning July 1, 2009, and when affecting more than 1,000 South Carolina residents, many notifications were made out of an abundance of caution.

Healthcare organizations, governmental entities, financial services providers, and the retail and food service industry were the most prominent sectors reporting security breach incidents. Please be aware as you read the information provided that many companies and organizations did not report a specific number of consumers affected. Therefore, the totals provided reflect the minimum number of South Carolina residents potentially affected. During the designated time period, the Department received **165** security breach notices affecting **7,047,712** South Carolina residents.

Number of Security Breach Notices Received by Industry from July 2008 – December 2014



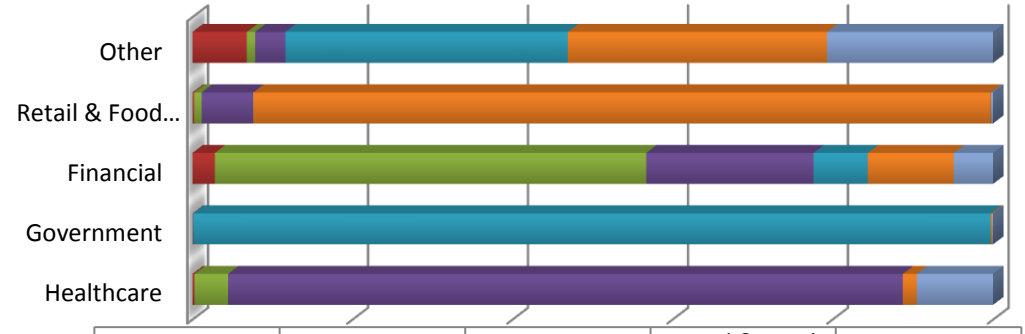
	Healthcare	Government	Financial	Retail & Food Service	Other
2014	3	2	4	14	16
2013	3	4	3	10	21
2012	1	6	1	3	11
2011	5	3	4	6	4
2010	4	2	5	7	6
2009	3	0	3	5	3
2008	0	1	1	1	0

Figure 1

From July 2008 through December 2014, a total of forty-six breaches were reported by the retail and food service industry, twenty-one from financial service providers, nineteen from healthcare organizations, and eighteen from governmental entities. SCDCA also received sixty-one other reports of breaches from companies outside these four main sectors.

The Department received the most notices in 2013 (41 notices) followed closely by 2014 (39 notices). The notices received in 2014 and 2013 represent a significant increase in comparison to prior years: 2012 (22), 2011 (22), 2010 (24), 2009 (14), and 2008 (3).

Number of South Carolina Residents Affected by Security Breaches by Industry from July 2008 – December 2014



	Healthcare	Government	Financial	Retail & Food Service	Other
2008	0	8	0	0	0
2009	955	0	602	955	6,645
2010	16,529	2,800	11,594	5,167	1,022
2011	330,853	5,603	4,495	34,274	3,715
2012	0	5,979,100	1,454	75	34,580
2013	6,819	10,708	2,301	491,168	31,714
2014	37,237	4,666	1,053	1,356	20,264

Figure 2

More than 7 million South Carolina residents were affected by the 165 security breaches reported during 2008-2014. Cumulatively, 2012 represented the year with the largest number of South Carolina residents being affected by breaches with a total of 6,015,209. The total number of residents affected by breaches for the remaining years addressed in this report are as follows: 64,576 (2014), 542,710 (2013), 378,940 (2011), 37,112 (2010), 9,157 (2009), and 8 (2008). Most of the reports made in 2008 did not contain numbers for consumers affected as the notice requirement had not yet gone into effect.

Although the number of these affected consumers varied significantly among the different industries and organizations, the government sector in 2012 impacted the largest total number of South Carolina consumers at more than 5,979,100. Healthcare organizations reported breaches affecting the most consumers for the years 2014 (37,237 consumers), 2011 (330,853 consumers), 2010 (16,529 consumers), and 2009 (955). Breaches reported by the retail and food service industry affected the most consumers in 2013 (491,168) and tied with healthcare organizations for 2009 (955).

Total Number of Notices and Affected Consumers per Industry from July 2008 – December 2014

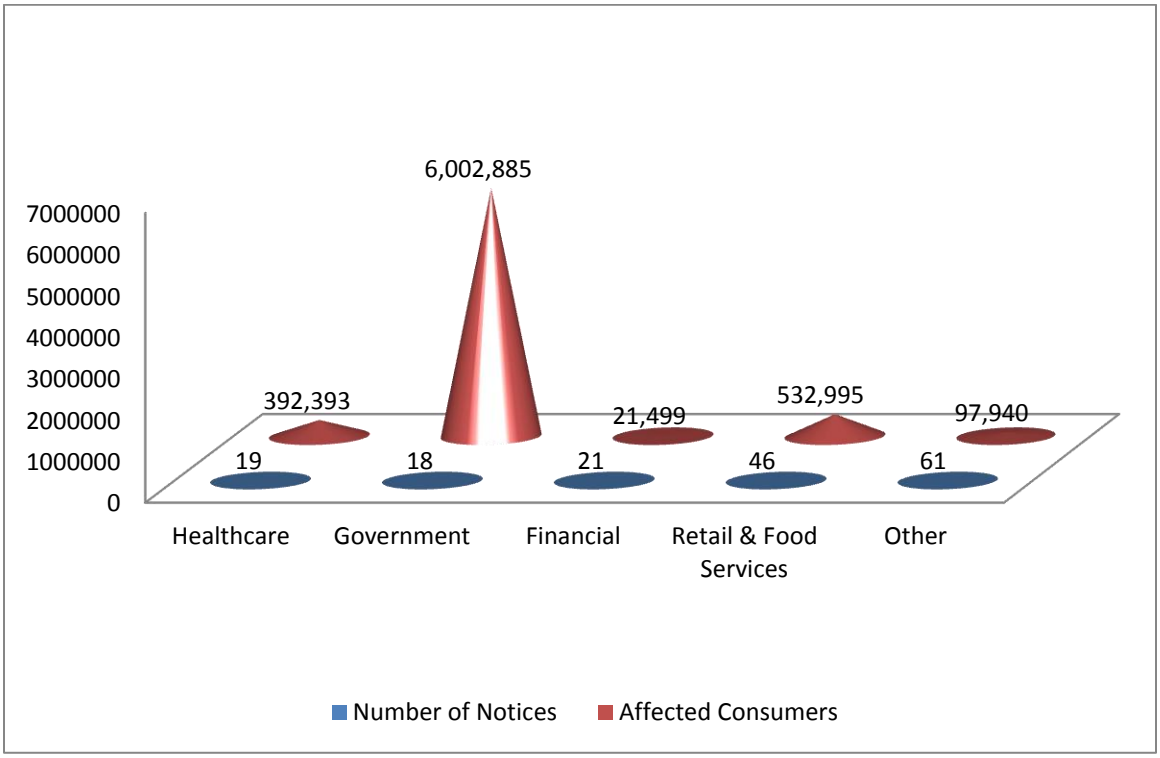


Figure 3

From July 2008 – December 2014, governmental entities reported eighteen security breaches affecting over six million South Carolina residents. The retail and food service industry submitted forty-six security breach notices that affected more than 532,000 residents. The healthcare industry came in third with nineteen security breaches that affected more than 392,000 residents. Financial service providers reported twenty-one security breaches affecting more than 21,000 residents. Other industries falling outside these four main sectors filed sixty-one notices affecting just shy of 98,000 consumers.

CONCLUSION

While FIFITPA places requirements on businesses and public bodies to protect consumers from identity theft, consumers, especially those who receive notice of a security breach, must take action to guard against this crime. Financial accounts, including bank, credit card and investment statements, should be closely monitored. Consumers also need to carefully review every "Explanation of Benefits" statement from a health insurer and request a list of benefits paid in their name on an annual basis. If incorrect or questionable information is spotted, the consumer should contact the bank or insurer immediately.

Consumers also need to check their credit reports regularly. Under federal law, every consumer has the right to receive a FREE copy of their credit report once a year from the three major credit reporting companies. To obtain a free credit report consumers can log on to www.annualcreditreport.com, call 877-322-8228, or complete the Annual Credit Report Request form found on the Federal Trade Commission Website (FTC) at http://www.consumer.ftc.gov/articles/0155-free-credit-reports and mail it to Annual Credit Report Request Services, P.O. Box 105281, Atlanta GA 30348- 5281. Annualcreditreport.com is the ONLY official website offering a FREE credit report. Consumers should beware of sites, e-mails, pop-ups, and links that charge a fee for its product and services. If a consumer finds unknown activity on a credit report, a dispute should be sent to the credit reporting agency, with a courtesy copy to the company reporting the information.

A security freeze is also an option consumers can consider. This identity theft protection tool can prevent an unauthorized person from opening new accounts in the victim's name or obtaining services where a credit report is required. Consumers are provided a PIN number to lift or temporarily remove the freeze when needed. The freeze does not, however, guard against someone from using a stolen credit card number.

The protected consumer freeze is a relatively new identity theft protection for minors under the age of 16 and incapacitated adults. This line of defense is similar to the traditional security freeze but is for protected consumers who do not currently have a credit report. Parents, guardians, and representatives can create and freeze a protected consumer's credit file for free.

As data breaches continue to be a concern, potential legislative changes are likely. In past years, legislation was introduced that would amend the timing requirement for breach notifications as well as the content of the notice to consumers.

For those consumers who may have been affected by a security breach or would like more information about protecting their personal information, visit www.consumer.sc.gov and click the "Identity Theft Resources" button or call us toll-free at 1-800-922-1594.

For details on what action to take in resolving specific identity theft problems, consumers can contact SCDCA's Identity Theft Unit at the number above or fill out an Identity Theft Intake Form online.

South Carolina Department of Consumer Affairs

2221 Devine St. STE. 200 | PO Box 5757 | Columbia, SC 29250
800-922-1594 | www.consumer.sc.gov

SCDCA aims to protect consumers from inequities in the marketplace through advocacy, complaint mediation, enforcement and education. To file a complaint or get information on consumer issues, visit www.consumer.sc.gov or call toll-free, 1.800.922.1594