

Identity Theft

Preventing, Detecting, and Mitigating Identity Theft Concerns



ACA International, the Association of Credit and Collection Professionals, supports identity theft prevention legislation that protects consumers without imposing unreasonable burdens and barriers on the credit and collection industry. While ACA recognizes the important role identity theft prevention legislation plays in protecting personal consumer information, well-intentioned legislative efforts should not create unnecessary and unintended liability or burdens for the credit and collection industry.

Background

Any legislative or regulatory attempts to protect consumers from identity theft must carefully balance three critical factors:

- (1) ensuring personal information can be used to carry out legitimate services to the economy, such as debt collection;
- (2) ensuring privacy of information to protect against identity theft and other improper uses of such information; and
- (3) limiting unintended consequences and disproportionate costs of implementation of any identity theft prevention and mitigation requirements.

The credit and collection industry has a strong economic incentive to assure personal consumer information is protected against misuse. The risks and consequences of identity theft impose significant financial burdens on debt collectors, not only because collectors cannot seek payment for an alleged obligation from a victim of identity theft, but in lost business if creditor clients cannot trust the collector to maintain data integrity and identity theft prevention policies and procedures. As a result, maintaining privacy of personal consumer information and verification procedures to investigate potential claims of identity theft is a sound and widely adopted business practice by members of the credit and collection industry.

Overlapping laws

The collection industry is strictly regulated through existing and overlapping federal legislation, including but not limited to the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), and the Gramm-Leach-Bliley Act (GLBA). Debt collectors are also subject to a myriad of state laws and regulations and state common law. These regulations already impose certain requirements intended to mitigate identity theft.

To prevent overlapping and potential inconsistencies with federal identity theft mandates, ACA believes identity theft prevention laws and legislation should provide debt collectors in compliance with the FCRA and GLBA are deemed compliant with any state-imposed identity theft prevention requirements.

Certain Information is Necessary

To allow debt collectors to efficiently, effectively, and compassionately respond to identity theft concerns, it is paramount consumers be required to provide certain information to permit debt collectors to sufficiently substantiate a claim of identity theft. Sufficient information could include submission of the *Identity Theft Affidavit* prepared by the Federal Trade Commission, a copy of a police report, or any similar submission in which the consumer provides the debt collector with information necessary to conduct an investigation and substantiate the claim.

Moreover, providing certain personal consumer information such as a portion of one's Social Security Number or other identifying information can often assist in substantiating an identity theft claim. While ACA appreciates the concern regarding the protection of personal consumer information, well-intentioned legislative efforts should not pose an unreasonable burden upon businesses using personal identifiers in a reasonable, legitimate, and cautious way.

ACA International, the Association of Credit and Collection Professionals, is the primary trade association for members of the credit, collection, and debt purchasing industry and has been a leading source for industry information and education for more than 65 years. The association has more than 5,500 members, including third-party debt collectors, asset buyers, attorneys, credit grantors and vendor affiliates.