

CONSUMER LAW

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Bankruptcy

What is Bankruptcy?

Bankruptcy is a legal proceeding in federal bankruptcy court. The purpose of a bankruptcy is to stop most debt collection activity in order to give honest debtors an opportunity for a financial "fresh start" either by discharging (forgiving) many of their debts or by allowing the debtors to reorganize their debts so that they can realistically be paid to the extent the debtors are able to repay.

Bankruptcy balances the interests of those who owe debts (debtors) and those to whom debts are owed (creditors). **A person or business need not be insolvent in order to use bankruptcy.** Individuals can reorganize their debts in chapter 13 or chapter 11 and can be forgiven from owing many (but not all) debts in chapter 7.

What Property Can be Kept?

Both in bankruptcy and outside of bankruptcy, all North Carolinians are entitled to protect or "exempt" a certain amount of property from the claims of their creditors. In chapter 7, assets that are not exempt are subject to being liquidated to pay creditors but the average person can exempt their home, vehicle and personal property. The amount of property one can protect is a function of the amount of equity in the property and North Carolina law. NCGS §1C-1601.

What Bankruptcy Can Do:

- Eliminate the legal obligation to pay most debts. This is called "discharge."
- Stop foreclosure on real estate or mobile homes and obtain time to catch up on missed payments.
- Prevent repossession of collateral such as a car.
- Stop action by creditors to collect debts.
- Restore or prevent termination of utility services.

What Bankruptcy Usually Can NOT Do:

- Change the lien rights of secured creditors. Debtors who want to keep collateral will have to be current on their loans or pay them through a chapter 13 payment plan.
- Certain debts may not be discharged or eliminated in bankruptcy. These debts include child support, alimony, most student loans, court-ordered restitution, criminal fines, and most taxes.
- Discharge a co-signer from the debt-- Unless the co-signer also files bankruptcy, he or she will still be fully responsible for paying the debt.

Types of Bankruptcy

Most people filing bankruptcy want to file under Chapter 7 or Chapter 13. Either chapter of bankruptcy may be filed individually, or jointly by a married couple.

Chapter 7:

Chapter 7 is also known as "liquidation" or "straight bankruptcy." It is a fairly quick procedure in which most debts are discharged. In return, debtors agree to give up any property that is not exempt, but in the vast majority of cases, all of the debtor's property is exempt. In Chapter 7, you usually cannot keep any secured property that is not current on payments.

Chapter 13:

Chapter 13 is also known as a "wage earner plan" or "reorganization." Chapter 13 allows a debtor to propose a payment plan which can be up to 5 years long. A chapter 13 Plan can be useful to catch up on secured debts (a home or vehicle loan) and certain debts which must be paid (taxes, marital debts). The debtor in this proceeding pays his debts using a plan of payments.

Consider a Chapter 13 bankruptcy if:

1. You have a regular source of income
2. You want to catch up on own your home and have not been able to make payments.
3. You have valuable property that is not exempt and that you want to keep.
4. You can afford to make some payments toward your debts.

Do I Need an Attorney to File Bankruptcy?

You will definitely need an attorney to successfully file a chapter 13. It is possible to file a chapter 7 yourself using forms and information available from the local bankruptcy court but it is wise to get a bankruptcy attorney. Most bankruptcy attorneys offer free or low cost consultations and can advise you on how to get the funds for attorney fees. There are also court filing fees of \$299.00 for a Chapter 7 bankruptcy and \$274.00 for a Chapter 13.

Can you own anything after bankruptcy?

Yes, you can keep all property that is exempt and anything you obtain after bankruptcy. If you receive an inheritance, a property settlement or life insurance within 180 days of filing bankruptcy, you must disclose this and that money may have to be paid to your creditors. you may have to pay to your creditors that money.

Won't Bankruptcy Ruin Your Credit Forever?

No. Bankruptcy will remain on your credit report for 7 to 10 years but you can take steps to rebuild and can get credit during that time. The decision as to whether not to extend credit is up to each individual creditor, and depends on a variety of factors, such as income, collateral, etc.

Car Repossession

Concepts of Lien Rights to Collateral and Personal Liability on Debt

Consumers should understand that any valid secured debt has two parts: The security interest in the collateral (lien rights to collateral) and underlying personal liability on the debt.

Default Events and Right to Self-Help Repossession

Default on a vehicle purchase or lease can be lapse of insurance, in addition to missed or late payments. Upon default, the secured lender is entitled to exercise its lien rights and take possession of its collateral (the vehicle). Upon default, the secured creditor may repossess its collateral (the car) without going to court and using law enforcement if it can do so without a breach of the peace. This is called self-help repossession. A secured lender may not break into a garage or breach the peace to repossess. Law enforcement officials should be called if either of these occur.

Sale of Collateral & Deficiency Balances

After repossession, the seller can sell, lease or dispose of the car. If the car is sold, you must be notified of the time, date and place of the sale. The creditor generally adds the costs of repossession, storage, and sale of the car to the debt and the sale proceeds are then applied to the total debt. Because repossessed property is commonly sold at auction for a fraction of its purchase price, there is often a significant debt remaining after the sale, this is called a deficiency balance and the consumer is responsible for this amount.

Personal Property in Repossessed Vehicle

You are entitled to any property in the car that was not part of original sale. For example, tools, clothes, stereo equipment, baby seats, etc. Consumers should contact their creditor immediately after repossession to recover any such personal property.

Regaining Possession of Repossessed Property

This is possible if the consumer can bring the account up-to-date, although the borrower will probably have to pay for all reasonable costs of repossession plus storage. The lender should be contacted as soon as possible with the offer to bring the account current and maintain future payments. If no agreement can be reached, the car will be sold or disposed of but the consumer must be notified of the sale.

Credit Repair, Debt Settlement and Foreclosure Rescue Scams

Credit Repair

The FTC has investigated over 70% of the companies promising to "repair" credit. None of these companies can remove truthful information from a credit report. There is no legitimate, legal way to change one's credit report or score other than the actions that consumers can take themselves, for free. These actions include correcting errors in their reports, paying bills on time and not having or using too much of available credit.

Tactics used by credit repair companies are usually fraudulent, or at best only temporary. The most common are to "dispute" all debts, even debts that are genuine, or to assume another identity (sometimes called "credit segregation"), which is illegal.

The fact is there's no quick fix for creditworthiness. Consumers can improve their credit reports legitimately, but it takes time, a conscious effort, and sticking to a personal debt repayment plan.

Signs of a Credit Repair Scam

- The company wants you to pay before they provide any services. Under the Credit Repair Organizations Act, credit repair companies cannot require you to pay until they have completed the services they have promised.
- The company doesn't tell you your rights and what you can do for yourself for free.
- The company advises you to dispute all the information in your credit report, regardless of its accuracy or timeliness.
- The company recommends that you do not contact any of the three major national credit reporting companies directly.
- The company tells you they can get rid of most or all of the negative credit information in your credit report, even if that information is accurate and current.
- The company suggests that you try to invent a "new" credit identity — and then, a new credit report — by applying for an Employer Identification Number to use instead of your Social Security number.

If you follow illegal advice and commit fraud, you may find yourself in legal trouble, too. It's a federal crime to lie on a loan or credit application, to misrepresent your Social Security number, and to obtain an Employer Identification Number from the Internal Revenue Service under false pretenses. You could be charged and prosecuted for mail or wire fraud if you use the mail, telephone, or Internet to apply for credit and provide false information. See www.ftc.gov consumer information for more.

Debt Settlement

Debt Settlement companies promise to save you huge amounts by settling your debts for far less than the amount you owe. There are many problems with debt settlement companies, and these companies often cause more problems than they solve. Consumers who have access to a lump sum settlement amount or can save such a sum can negotiate their own settlements. Settlement companies typically have consumers stop paying their

debts and pay the money to the settlement firm until there is enough to make a settlement offer. The problems are that while the money is building up, your interest and fees continue, the creditor may sue and credit ratings continue to worsen. New laws attempt to curb the abuses in debt settlement firms. According to the FTC, consumers should avoid doing business with any company that:

- Charges any fees before it settles your debts
- Touts a "new government program" to bail out personal credit card debt
- Guarantees it can make your unsecured debt go away
- Tells you to stop communicating with your creditors
- Tells you it can stop all debt collection calls and lawsuits
- Guarantees that your unsecured debts can be paid off for just pennies on the dollar.

Negative Consequences of Debt Settlement:

- Creditors may pursue legal action more quickly when you stop paying the debts.
- Settlements often have strict terms so it is easy for a small mistake to void or nullify the settlement and leave you owing the whole amount despite the creditor having taken your settlement money.
- Creditors often report your account as "settled for less than full amount."
- Creditors may issue you a 1099 tax form listing the forgiven debt amount as taxable income to you. You may be responsible for taxes as a result, although there are exceptions to this as set out in IRS form number 982..
- The terms of your contract with the debt settlement agency may make you liable for a percentage of the money that the settlement "saved" you, which can be thousands of dollars.

Consumers should read the consumer information on debt settlement that's available on the FTC website before using any debt settlement company.

Foreclosure Rescue Schemes

These businesses promise to save your home, either by having you send them your mortgage payments while they “negotiate” with your lender, or by getting you to sign over the title to your home. Either way, you lose.

Foreclosure prevention options are offered for free or a very low cost by reputable HUD-certified housing counselors and by bankruptcy. When it sounds too good to be true, it usually is.

Avoid any business that:

- Guarantees to stop the foreclosure process – no matter what your circumstances
- Tells you not to contact your lender, lawyer, or credit or housing counselor
- Collects a fee before providing you with any services
- Accepts payment only by cashier’s check or wire transfer
- Encourages you to rent your home so you can buy it back over time.
- Tells you to make your mortgage payments directly to it, rather than your lender

- Tells you to transfer your property deed or title to it.
- Offers to fill out paperwork for you
- Pressures you to sign paperwork you haven't had a chance to read thoroughly or that you don't understand.
- Offers to buy your house for cash at a fixed price that is not set by the housing market at the time of sale

If you're having trouble paying your mortgage or you have gotten a foreclosure notice, contact your lender immediately.

Common foreclosure rescue scams include the following:

Phony Counseling or Help

The scam artist tells you that he can negotiate a deal with your lender to save your house if you pay a fee first. You may be told not to contact your lender, lawyer, or credit counselor, and to let the scam artist handle all the details. Once you pay the fee, the scam artist takes off with your money.

Sometimes, the scam artist insists that you make all mortgage payments directly to him while he negotiates with the lender. In this instance, the scammer may collect a few months of payments before disappearing.

Bait-and-Switch

You're told that you're signing documents for a new loan to bring your existing mortgage current. This is a trick: you've signed documents that surrender the title of your house to the scam artist in exchange for a "rescue" loan.

Rent-to-Buy & Equity Theft Scams

Consumers should understand that transferring the deed does nothing to transfer personal obligation on a mortgage. Common schemes have the homeowner transferring ownership in exchange for being allowed to remain in the home as a renter, and to buy it back during the next few years. The consumer is often told that this will permit a borrower with a better credit rating to get new financing and prevent foreclosure.

The terms of these deals usually are so burdensome that buying back the home is impossible. The consumer loses the home, and the scam artist walks off with all or most of the home's equity. Or the scam artist raises the rent over time until the former homeowner can't afford it and is evicted, leaving the "rescuer" free to sell the house.

In another equity-skimming scheme, the scam artist offers to find a buyer for the home and pay the consumer part of the profit, but only if the consumer signs over the deed and moves out. Instead, the scammer rents out the home and pockets the proceeds while foreclosure proceeds.

Bankruptcy Foreclosure

Promises are made to clear up foreclosure if the consumer pays a fee up front. Instead of contacting the lender or refinancing the loan, though, the scam artist pockets the fee and files a bankruptcy case in the homeowner's name – sometimes without the homeowner's knowledge.

Consumers should seek information from a reputable, HUD-certified housing counselor or www.ftc.gov/yourhome

Credit Reports and Credit Scores

Credit Reports

Every consumer is entitled to one free credit report from each of the 3 major Credit Reporting Agencies (CRAs) each year, but free reports can only be obtained from one source: www.annualcreditreport.com (or 1-800-FACT-ACT). All other sources that advertise with names like "free credit report dot com" or "free triple score dot com" do NOT provide anything for free. These "imposter sites" instead will give you a "free" report or score only if the consumer pays for expensive, unnecessary monthly monitoring services.

Correcting Credit Report Errors

Most negative information on credit reports is to be deleted after 7 years. The majority of credit reports contain at least one error. Consumers can correct errors by writing to the CRA either through the Agency's online process or by certified mail, return receipt requested. Information on credit report errors and how to correct them is available on the websites of the CRAs as well as the Consumer Information section of www.ftc.gov

Credit Scores

Credit scores are not free. They cost about \$16.00 can be obtained directly from any of the three credit bureaus or from www.MyFICO.com. The higher your credit score the easier it is to obtain credit at a low interest rate.

The Big Three CRAs are:

Equifax

1-800-685-1111

Website: www.equifax.com

TransUnion

1-800-916-8800

Website: www.transunion.com

Experian

1-888-397-3742

Website: www.experian.com

For more help, consumers should consult the FTC website about how to select a reputable credit counselor. www.ftc.gov

Debt Collection Information and Rights

Will I face criminal charges or go to jail if I can't pay my debts?

No. The worst that can happen is that you may have a civil, not criminal lawsuit filed against you to collect the debt. If you receive a lawsuit, it will have a court name and case number on it. You must file a written answer within 30 days to avoid having a judgment entered against you by default.

Consumers may face a minor criminal action for writing a bad check, but unless the amount is over \$1,000 or the check was written on a closed account, the worthless check charge will be dismissed upon payment of the check amount plus the court fees.

Fair Debt Collection Laws

The Federal Fair Debt Collection Practices Act (FDCPA) and the state law versions of this Act, provide consumers with protections against abusive and unreasonable collection practices. These laws generally do not apply to business debts, only consumer debts.

Statute of Limitations to Sue on a Debt

Most debts have a NC statute of limitations of 3 years, except for debts signed under seal (mortgages, etc.), which have a 10-year statute of limitations. Consumers should distinguish between the statute of limitations, which provides a time limit in which to sue the borrower that runs from the first default on the debt, and the time that a debt may remain on the consumer's credit report (7 years with a few exceptions).

North Carolina Limitations on Wage Garnishment for Most Creditors

Wage garnishment is usually a judgment creditor's remedy after the debtor has been given his or her right to claim exempt property. North Carolina is one of only 4 states that prohibits wage garnishment except for marital debts (alimony and child support), taxes, and federal student loans.

Because North Carolina is in a small minority in this regard, debt collectors typically threaten NC residents with garnishment, which is itself a violation of the fair debt collection laws (threatening an action that is not legal). If not claimed as exempt, bank account may be levied upon by a legitimate judgment creditor, but federal benefits such as social security funds are exempt.

Can a debt collector contact me any time or any place?

No. A debt collector may not contact you at inconvenient times or places, such as before 8 am or after 9 pm, unless you agree to it. Collectors may not contact you at work if they're told (orally or in writing) that you're not allowed to get calls there.

How can I stop a debt collector from contacting me?

If you decide after talking to the debt collector that you don't want the collector to contact you again, tell the collector – in writing – to stop contacting you. Here's how to do that:

- Make a copy of your letter.
- Send the original by certified mail, and pay for a “return receipt” so you'll be able to document what the collector received.

Once the collector receives your letter, they may not contact you again, with two exceptions: a collector can contact you to tell you there will be no further contact or to let you know that they or the creditor intend to take a specific action, like filing a lawsuit. Sending a letter telling the collector to stop contacting you does not get rid of the debt, but it should stop the contact. The creditor or the debt collector still can sue to collect the debt during the statute of limitations period. It is usually not worth it for the creditor to sue on a small debt.

Can a debt collector contact anyone else about my debt?

If an attorney is representing you about the debt, the debt collector must contact the attorney, rather than you. If you don't have an attorney, a collector may contact other people only to find out your address, your home phone number, and where you work. Collectors usually are prohibited from contacting third parties more than once. Other than to obtain this location information about you, a debt collector generally is not permitted to discuss your debt with anyone other than you, your spouse, or your attorney.

What practices are off limits for debt collectors?

- Harassment. Debt collectors may not harass, oppress, or abuse you or any third parties they contact. For example, they may not use threats of violence or harm, use obscene or profane language; or call repeatedly to annoy someone.
- False statements. Debt collectors may not lie when they are trying to collect a debt. For example, they may not falsely claim that they are attorneys or government representatives, falsely claim that you have committed a crime, misrepresent the amount you owe, indicate that papers they send you are legal forms if they aren't.
- Threats. Debt collectors also are prohibited from saying that you will be arrested if you don't pay your debt; that they'll seize, garnish, attach, or sell your property or wages unless they are permitted by law to take the action and intend to do so; or that legal action will be taken against you, if doing so would be illegal or if they don't intend to take the action.

For more information, see the Consumer Information at www.ftc.gov and the NC Attorney General's Consumer Protection site.

Foreclosures

Where is borrower/mortgagor in the process?

Often, borrowers will think they are "in foreclosure" before any court papers are filed. Borrowers may be told they are "in foreclosure" because their file has gone to a foreclosure department of the lender/servicer. If the person HAS NOT received papers from a **trustee** regarding the default, there are several things that may still be available that would prevent them from foreclosure. If they can avoid foreclosure it will save them, about \$1,500 in trustee fees.

A trustee has to initiate the foreclosure proceeding. The trustee must send a demand letter to the borrower before they can request a foreclosure hearing. A foreclosure hearing is held before the clerk of superior court.

Foreclosure Avoidance Options

Foreclosure can be avoided either through retention or disposition options. Retention options are various means of bringing the debt on the home out of default. Disposition options to avoid foreclosure are either short sale or deed in lieu of foreclosure ("Deed in Lieu"). Borrowers should first take a hard, realistic look at whether or not they can realistically afford the payments on their home based on their current income and debt situation, without worrying about arrearages on their mortgages. Decreased income or debt in great excess of the home's true value usually means that the borrower will not be successful in keeping the home and should trigger looking at disposition options.

- Short Sale = Selling the home for less than it is worth with the lender or lenders agreeing to take less than the full amount and hold the borrower harmless for the remainder of the debt. Lenders have a specific process and required documents for short sales.
- Deed in Lieu of Foreclosure = Transferring title to the lender so that both borrower and lender can avoid the costly and time consuming process of foreclosure and allows the borrower to escape any deficiency balance. This is not an option if there is a separate junior lienholder on the property.

Prior to the Foreclosure

If home retention is the goal, the borrower should beware of foreclosure rescue scams. (See page 5 "Foreclosure Rescue Schemes".) It is illegal in North Carolina to charge a borrower a fee to assist in negotiating a modification. The NC Banking Commission can be contacted to make sure that a borrower is not involved in an illegal and dangerous scam.

Certified HUD counselors can be key advocates for borrowers, especially those trying to navigate through the process of getting a modification pro se. HUD counselors generally offer their services free or at a very low cost.

NC Foreclosure Prevention Fund

A new N.C. Foreclosure Prevention Fund is now available statewide through the North Carolina Housing Finance Agency (NCHFA) and participating HUD counselors. The new program is financed by the U.S. Department of the Treasury's "Hardest Hit Fund." The Fund will make mortgage payments for qualified unemployed workers while they seek jobs or complete job training in a new field. Others who have gotten behind on their mortgage payments because of divorce, illness or other temporary hardship, may qualify for help while they seek jobs to get back on their feet. The program can make up to 24 months of mortgage payments.

HAMP

If the borrower has income, whether or not they are being considered for the NCHFA relief program, they should immediately request a Home Affordable Modification Program (HAMP) modification. Borrowers should not rely upon their lender for HAMP information, they should get free assistance from a housing counselor. The Hope line, listed in the Resource section below will refer them to such a counselor.

HAMP modifications arise from the Obama Making Homes Affordable Program and the majority of lenders/servicers are required to offer this assistance. The main advantages of this type of modification is that the mortgage payments, including taxes and insurance, cannot exceed 31% of the homeowner's gross income. To accomplish this goal, interest rates can go down to 2% and the term of the loan can be increased to 40 years. If the 2%/40-year adjustment still fails to bring the client's payment to 31%, the lender/servicer may forbear principal to get the client to 31%. Finally, any arrearage is put on the back end of the note so there is not an upfront cost that often prohibits borrowers in financial distress.

Borrowers are often denied a HAMP modification because the lender/servicer claims that borrower did not send in requested documentation. It is often the case that the lender/servicer will ask the borrower repeatedly for documents. Borrowers should be advised to fax documents, if possible, to provide some receipt if there becomes a dispute over whether the documents were sent. Proactive follow-up is also important because the financial information (verification of income, bank statements) are deemed to be "stale" after 60 days.

HAMP modifications require that the borrower complete a "three month" trial-period as a condition precedent to obtaining a permanent modification. The client must make all trial plan payments on time and in accordance with the terms of the trial plan. Failure to do so will be used by the lender as a justification for denying permanent modification assistance.

More detailed information on the HAMP modification program can be found by contacting the US Department of Treasury's website.

Other workout plans, including modifications and forbearance plans may be requested through whatever entity is servicing the loan. Indeed FHA, Fannie Mae and Freddie Mac

loans are required to include an attempt to work out a plan prior to the filing of the foreclosure.

The Foreclosure Hearing

Borrowers often do not realize that they cannot present evidence or explain why they are behind in their mortgage. The clerk is restricted by statute from looking at any issues beyond the following:

1. Is there a valid debt, i.e., can the foreclosing party show that they own the note?
2. Is sale authorized in the mortgage instrument?
3. Did all requisite parties receive notice?
4. Has there been a default?
5. (NEW!) Whether there is an opportunity for parties to resolve foreclosure of owner-occupied residential property.

This last issue is a recent change in the law and is of great importance, especially because there are instances where the lender/servicer has not been cooperative in attempts to work out a solution with the borrower. NCGS § 45-21.16C states that the clerk shall order the hearing continued for up to 60 days if there is good cause to believe that additional time or additional measures have a reasonable likelihood of resolving the delinquency without foreclosure. The clerk can consider whether the borrower has been offered the opportunity to resolve the foreclosure and whether there has been responsive communication between the parties. So, if the borrower is in the process of a modification/workout, or if the borrower cannot get the lender/servicer to cooperate in any resolution efforts, the borrower should ask for such continuance.

The Sale

The sale cannot take place prior to 20 days after the foreclosure hearing. The sale can be postponed indefinitely. After 90 days, the trustee does have to re-notice the sale.

The Notice of sale must be published 2 consecutive weeks in a local periodical with the last publication not more than 10 days prior and posted in the courthouse 20 days prior to the sale and the Legal Description of the subject property on the Notice of Sale must match the Legal Description on the Notice of Hearing and the Deed of Trust.

If the borrower can fund a viable chapter 13 bankruptcy plan, a chapter 13 case can stop a foreclosure sale from becoming final, even when filed during the 10-day upset period after the sale. However, chapter 13 bankruptcies are rarely, if ever successful when filed pro se, they require a tremendous amount of paperwork and most bankruptcy lawyers require some lead time.

Foreclosure Assistance Resources

- Legal Aid of North Carolina - 866-219-5262. If a person does not qualify, they will be referred to another agency that may be able to provide assistance.
- Homeowner's HOPE Hotline - 888-995-4673
- North Carolina Housing Finance Agency - 800-393-0988
- North Carolina Commissioner of Banks - 888-384-3811
- NC Attorney General's Consumer Protection Division - 1-877-5-NO-SCAM
- NC Justice Center - 919-856-2570
- HUD - (800) 569-4287
- Bankruptcy Attorney - NC Lawyer Referral Service - 800-662-7660

Identity Theft

Identity theft is when someone else uses your personal information without your permission to obtain credit, make purchases and commit crimes such as fraud.

The NC Attorney General's Office consumer protection division has an ID Theft Tool Kit, Affidavit and other helpful items. www.ncdoj.com As set out on this site, consumers who are victims of identity theft should take the following steps:

Step 1: File a Police Report

The first choice as to where to file the police report is where the crime occurred. Example: If your credit card number was used at a business in Charlotte, file a report with the Charlotte-Mecklenburg Police Department. The second choice is to file a police report where you live or where the suspected thief lives.

Filing a police report triggers helpful protections under both federal and state law, such as an extended fraud alert and a free security freeze. A police report will be useful as you contact creditors to try to restore your credit, so get a copy.

Step 2: Close the Affected Accounts

Close any accounts affected by identity theft by asking banks and/or businesses to close the violated accounts. You may need to ask for a new account with a new personal identification number (PIN) and password. When selecting a PIN or password, avoid using information such as your date of birth, mother's maiden name, children's names, last four digits of your SSN, telephone number or a series of consecutive numbers (i.e., 1, 2, 3, 4).

Call SCAN (1-800-262-7771) to see if there are outstanding bad checks in your name. Contact your bank to stop payment on stolen or misused checks. Ask check verification companies to notify retailers not to accept the bad checks. TeleCheck: 1-800-710-9898 and Certegy, Inc.: 1-800-437-5120 If businesses receive bad checks or credit in your name, notify them that you're a victim of identity theft and provide them with proof, such as a police report.

Step 3: Notify the Credit Bureaus

Option 1: Fraud Alert

A fraud alert tells banks and other creditors to take extra steps to verify your identity before issuing credit in your name, but it will not stop credit in your name. A fraud alert is free and will last 90 days unless you request an extended seven-year fraud alert and provide a police report.

To request a fraud alert, contact one of the three nationwide credit bureaus by telephone, mail or on their Web site. The alert will be shared and a flag will be placed on your credit file with all three nationwide credit bureaus.

Each credit bureau will offer to you a free copy of your credit report. Review these reports carefully for any fraudulent activity and notify the credit bureaus online or in writing.

www.Equifax.com 1-800-525-6285

www.Experian.com 1-888-397-3742

www.TransUnion.com 1-800-680-7289

Continue to review your credit reports every few months. You can request a free credit report annually by calling 1-877-322-8228 or going online at www.annualcreditreport.com.

Option 2: Security Freeze

A security freeze stops access to new credit in your name. Placing a security freeze prohibits credit reporting agencies from releasing any information about you to new creditors without your approval, making it difficult for an identity thief to use your information to open an account or obtain credit.

North Carolina residents can get free security freezes online. Identity theft victims who have filed a police report, their spouses, and consumers over the age of 62 can also get free security freezes by mail or phone. Other consumers can get security freezes by mail or phone for a fee.

Step 4: Notify the Federal Trade Commission

File a report with the Federal Trade Commission (FTC) by calling 1-877-ID THEFT (1-877-438-4338) TTY 1-866-653-4261 or use the online complaint form at www.ftc.gov.

Additional Steps to Consider

Keep Records: Write down dates, contact persons, addresses, phone numbers, and other details. Request confirmation in writing of actions taken.

Driver's License: If you suspect that someone else has a state-issued North Carolina driver's license in your name, report it to the NC Division of Motor Vehicles at (919) 715-7000.

Employment: If someone is using your Social Security Number for employment purposes, notify the Social Security Administration at 1-800-269-0271 and the NC Employment Security Commission at (919) 733-5034.

Mail: Notify the local postal inspector if you suspect mail theft or fraud. You can contact North Carolina's local postal inspector at (704) 329-9120 or <http://postalinspectors.uspis.gov/>

Criminal: If you suspect that someone has used your name to avoid criminal punishment, notify local law enforcement and the district attorney in each county where charges were brought.

Tips to Avoid Identity Theft

1. Do not carry your Social Security Card with you and keep it locked up. If you need the number, write down all but the last four digits and memorize those numbers. Whenever possible on forms, leave the SSN number blank and give your SSN only when absolutely necessary. When you do provide it, ask why a SSN is needed, who has access to it, and how it will be kept confidential.
2. Never print your Social Security number, driver's license numbers or date of birth on your checks.
3. Destroy old bank statements, insurance forms, and other documents containing personal information when no longer needed.
4. Check your credit reports at least once a year.
5. Beware of emails that claim to come from a bank, Internet Service Provider, business or charity and ask you to confirm your personal information or account number. Forward the email to spam@uce.gov.
6. Never send your SSN or financial account numbers by email or transmit these numbers online unless using a secure website or encryption software.
7. Shop only on secure websites, and read website privacy policies
8. Guard your mail. Don't leave incoming mail sitting in your home mailbox or consider getting a mail box that locks. Put outgoing mail directly in a US Postal Service box. Shred any pre-approved credit card applications.
9. Don't store PIN numbers in your wallet or with your credit cards and avoid using easily available information such as mother's maiden name.
10. Watch for "shoulder surfers" when using your PIN at a store or ATM.
11. Call 1 (888) 5-OPT-OUT or visit www.optoutprescreen.com to stop pre-approved credit card applications that a thief could steal and use to get credit in your name.