

1 AN ACT in relation to criminal law.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by
5 changing the heading of Article 16G and Sections 16G-1,
6 16G-5, 16G-10, 16G-15, 16G-20, 16G-21, and 16G-25 as follows:

7 (720 ILCS 5/Article 16G heading)

8 ARTICLE 16G ~~FINANCIAL~~ IDENTITY THEFT
9 AND-ASSET-FORFEITURE LAW

10 (720 ILCS 5/16G-1)

11 Sec. 16G-1. Short title. This Article may be cited as
12 the ~~Financial~~ Identity Theft and-Asset-Forfeiture Law.

13 (Source: P.A. 91-517, eff. 8-13-99.)

14 (720 ILCS 5/16G-5)

15 Sec. 16G-5. Legislative declaration.

16 (a) It is the public policy of this State that the
17 substantial burden placed upon the economy of this State as a
18 result of the rising incidence of ~~financial~~ identity theft
19 and the negative effect of this crime on the People of this
20 State and its victims is a matter of grave concern to the
21 People of this State who have the right to be protected in
22 their health, safety, and welfare from the effects of this
23 crime, and therefore ~~financial~~ identity theft shall be
24 identified and dealt with swiftly and appropriately
25 considering the onerous nature of the crime.

26 (b) The widespread availability and unauthorized access
27 to personal identification information have led and will lead
28 to a substantial increase in identity theft related crimes.

29 (Source: P.A. 91-517, eff. 8-13-99.)

1 (720 ILCS 5/16G-10)

2 Sec. 16G-10. Definitions. In this Article unless the
3 context otherwise requires:

4 (a) "Personal identification document" means a birth
5 certificate, a drivers license, a State identification card,
6 a public, government, or private employment identification
7 card, a social security card, a firearm owner's
8 identification card, a credit card, a debit card, or a
9 passport issued to or on behalf of a person other than the
10 offender, or any document made or issued, or falsely
11 purported to have been made or issued, by or under the
12 authority of the United States Government, the State of
13 Illinois, or any other State political subdivision of any
14 state, or any other governmental or quasi-governmental
15 organization that is of a type intended for the purpose of
16 identification of an individual, or any such document made or
17 altered in a manner that it falsely purports to have been
18 made on behalf of or issued to another person or by the
19 authority of one who did not give that authority.

20 (b) "Personal identifying information" means any of the
21 following information:

- 22 (1) A person's name;
- 23 (2) A person's address;
- 24 (2.5) A person's date of birth;
- 25 (3) A person's telephone number;
- 26 (4) A person's drivers license number or State of
27 Illinois identification card as assigned by the Secretary
28 of State of the State of Illinois or a similar agency of
29 another state;
- 30 (5) A person's Social Security number;
- 31 (6) A person's public, private, or government
32 employer, place of employment, or employment
33 identification number;
- 34 (7) The maiden name of a person's mother;

1 (8) The number assigned to a person's depository
2 account, savings account, or brokerage account;

3 (9) The number assigned to a person's credit or
4 debit card, commonly known as a "Visa Card", "Master
5 Card", "American Express Card", "Discover Card", or other
6 similar cards whether issued by a financial institution,
7 corporation, or business entity;

8 (10) Personal identification numbers;

9 (11) Electronic identification numbers;

10 (12) Digital signals;

11 (13) Any other numbers or information which can be
12 used to access a person's financial resources, or to
13 identify a specific individual.

14 (c) "Document-making implement" means any implement,
15 impression, template, computer file, computer disc,
16 electronic device, computer hardware, computer software,
17 instrument, or device that is used to make a real or
18 fictitious or fraudulent personal identification document.

19 (Source: P.A. 91-517, eff. 8-13-99.)

20 (720 ILCS 5/16G-15)

21 Sec. 16G-15. Financial Identity theft.

22 (a) A person commits the offense of ~~financial~~ identity
23 theft when he or she knowingly:

24 (1) uses any personal identifying information or
25 personal identification document of another person to
26 fraudulently obtain credit, money, goods, services, or
27 other property, ~~or~~

28 (2) uses any personal identification information or
29 personal identification document of another with intent
30 to commit any felony theft or other felony violation of
31 State law not set forth in paragraph (1) of this
32 subsection (a), or

33 (3) obtains, records, possesses, sells, transfers,

1 purchases, or manufactures any personal identification
 2 information or personal identification document of
 3 another with intent to commit or to aid or abet another
 4 in committing any felony theft or other felony violation
 5 of State law, or

6 (4) uses, obtains, records, possesses, sells,
 7 transfers, purchases, or manufactures any personal
 8 identification information or personal identification
 9 document of another knowing that such personal
 10 identification information or personal identification
 11 documents were stolen or produced without lawful
 12 authority, or

13 (5) uses, transfers, or possesses document-making
 14 implements to produce false identification or false
 15 documents with knowledge that they will be used by the
 16 person or another to commit any felony theft or other
 17 felony violation of State law.

18 (b) Knowledge shall be determined by an evaluation of
 19 all circumstances surrounding the use of the other person's
 20 identifying information or document.

21 (c) When a charge of ~~financial~~ identity theft of credit,
 22 money, goods, services, or other property exceeding a
 23 specified value is brought the value of the credit, money,
 24 goods, services, or other property is an element of the
 25 offense to be resolved by the trier of fact as either
 26 exceeding or not exceeding the specified value.

27 (d) Sentence.

28 (1) A person convicted of identity theft in
 29 violation of paragraph (1) of subsection (a) shall be
 30 sentenced as follows:

31 (A) Financial identity theft of credit, money,
 32 goods, services, or other property not exceeding \$300 in
 33 value is a Class A misdemeanor. A person who has been
 34 previously convicted of ~~financial~~ identity theft of less

1 than \$300 who is convicted of a second or subsequent
2 offense of ~~financial~~ identity theft of less than \$300 is
3 guilty of a Class 4 felony. A person who has been
4 convicted of ~~financial~~ identity theft of less than \$300
5 who has been previously convicted of any type of theft,
6 robbery, armed robbery, burglary, residential burglary,
7 possession of burglary tools, home invasion, home repair
8 fraud, aggravated home repair fraud, or financial
9 exploitation of an elderly or disabled person is guilty
10 of a Class 4 felony. When a person has any such prior
11 conviction, the information or indictment charging that
12 person shall state the prior conviction so as to give
13 notice of the State's intention to treat the charge as a
14 felony. The fact of the prior conviction is not an
15 element of the offense and may not be disclosed to the
16 jury during trial unless otherwise permitted by issues
17 properly raised during the trial.

18 (B) (2)--~~Financial~~ Identity theft of credit, money,
19 goods, services, or other property exceeding \$300 and not
20 exceeding \$2,000 in value is a Class 4 felony.

21 (C) (3)--~~Financial~~ Identity theft of credit, money,
22 goods, services, or other property exceeding \$2,000 and
23 not exceeding \$10,000 in value is a Class 3 felony.

24 (D) (4)--~~Financial~~ Identity theft of credit, money,
25 goods, services, or other property exceeding \$10,000 and
26 not exceeding \$100,000 in value is a Class 2 felony.

27 (E) (5)--~~Financial~~ Identity theft of credit, money,
28 goods, services, or other property exceeding \$100,000 in
29 value is a Class 1 felony.

30 (2) A person convicted of any offense enumerated in
31 paragraphs (2) through (5) of subsection (a) is guilty of
32 a Class 4 felony.

33 (3) A person convicted of any offense enumerated in
34 paragraphs (2) through (5) of subsection (a) a second or

1 subsequent time is guilty of a Class 3 felony.

2 (4) A person who, within a 12 month period, is
3 found in violation of any offense enumerated in
4 paragraphs (2) through (5) of subsection (a) with respect
5 to the identifiers of 3 or more separate individuals, at
6 the same time or consecutively, is guilty of a Class 3
7 felony.

8 (Source: P.A. 91-517, eff. 8-13-99; 92-792, eff. 8-6-02.)

9 (720 ILCS 5/16G-20)

10 Sec. 16G-20. Aggravated ~~financial~~ identity theft.

11 (a) A person commits the offense of aggravated ~~financial~~
12 identity theft when he or she commits the offense of
13 ~~financial~~ identity theft as set forth in subsection (a) of
14 Section 16G-15 against a person 60 years of age or older or a
15 disabled person as defined in Section 16-1.3 of this Code.

16 (b) Knowledge shall be determined by an evaluation of
17 all circumstances surrounding the use of the other person's
18 identifying information or document.

19 (c) When a charge of aggravated ~~financial~~ identity theft
20 of credit, money, goods, services, or other property
21 exceeding a specified value is brought the value of the
22 credit, money, goods, services, or other property is an
23 element of the offense to be resolved by the trier of fact as
24 either exceeding or not exceeding the specified value.

25 (d) A defense to aggravated ~~financial~~ identity theft
26 does not exist merely because the accused reasonably believed
27 the victim to be a person less than 60 years of age.

28 (e) Sentence.

29 (1) Aggravated ~~financial~~ identity theft of credit,
30 money, goods, services, or other property not exceeding
31 \$300 in value is a Class 4 felony.

32 (2) Aggravated ~~financial~~ identity theft of credit,
33 money, goods, services, or other property exceeding \$300

1 and not exceeding \$10,000 in value is a Class 3 felony.

2 (3) Aggravated ~~financial~~ identity theft of credit,
3 money, goods, services, or other property exceeding
4 \$10,000 in value and not exceeding \$100,000 in value is a
5 Class 2 felony.

6 (4) Aggravated ~~financial~~ identity theft of credit,
7 money, goods, services, or other property exceeding
8 \$100,000 in value is a Class 1 felony.

9 (5) A person who has been previously convicted of
10 aggravated ~~financial~~ identity theft regardless of the
11 value of the property involved who is convicted of a
12 second or subsequent offense of aggravated ~~financial~~
13 identity theft regardless of the value of the property
14 involved is guilty of a Class X felony.

15 (Source: P.A. 91-517, eff. 8-13-99.)

16 (720 ILCS 5/16G-21)

17 Sec. 16G-21. Civil remedies. A person who is convicted
18 of ~~financial~~ identity theft or aggravated ~~financial~~ identity
19 theft is liable in a civil action to the person who suffered
20 damages as a result of the violation. The person suffering
21 damages may recover court costs, attorney's fees, lost wages,
22 and actual damages.

23 (Source: P.A. 92-686, eff. 7-16-02.)

24 (720 ILCS 5/16G-25)

25 Sec. 16G-25. Offenders interest in the property. It is no
26 defense to a charge of aggravated ~~financial~~ identity theft or
27 ~~financial~~ identity theft that the offender has an interest in
28 the credit, money, goods, services, or other property
29 ~~obtained-in-the-name-of-the-other-person.~~

30 (Source: P.A. 91-517, eff. 8-13-99.)

31 Section 99. Effective date. This Act takes effect upon

1 becoming law.