



# Know Your Rights:

## California Identity Theft Victims' Rights

### *Tips for Consumers*

September 2013

Identity theft is taking someone's personal information and using it for an unlawful purpose, such as opening credit accounts or making charges on the victim's account.<sup>1</sup>

If you are a victim of identity theft you have rights that can help you clear up your records and avoid paying debts you did not create.

- **You have the right** to file a police report of identity theft with your local police department or sheriff's office, even if the crime was committed elsewhere.<sup>2</sup> A police report of identity theft is the key to getting the benefit of the other rights listed below.
- **You have the right** to get copies of documents relating to fraudulent transactions or accounts created using your personal information.<sup>3</sup>
- **You have the right** to have information resulting from identity theft removed (blocked) from your credit reporting agency files.<sup>4</sup>
- **You have the right** to receive up to 12 free credit reports, one per month, in the 12 months from the date of the police report.<sup>5</sup>
- **You have the right** to "freeze" your credit files for free.<sup>6</sup> See the Office of the Attorney General's *How to "Freeze" Your Credit Files* for more information.
- **You have the right** to stop debt collection actions related to a debt resulting from identity theft. Before resuming collection, the collector must make a good faith determination that the evidence does not establish that the consumer is not responsible for the debt.<sup>7</sup>

<sup>1</sup> California Penal Code Section 530.5.

<sup>2</sup> California Penal Code Section 530.6.

<sup>3</sup> California Penal Code Section 530.8; Fair Credit Reporting Act Section 609(e) [15 United States Code § 1681g].

<sup>4</sup> California Civil Code Sections 1785.16(k), 1785.16.1, 1785.16.3, 1785.203(b); Fair Credit Reporting Act Section 605B [15 United States Code § 1681c-2].

<sup>5</sup> California Penal Code Section 1785.15.3(b).

<sup>6</sup> California Civil Code Section 1798.11.2.

<sup>7</sup> California Civil Code Section 1788.18.

- **You have the right** to bring an action or assert a defense against anyone claiming a right to money or property in connection with a transaction resulting from identity theft.<sup>8</sup>

If you are a victim of “criminal” identity theft, which occurs when an identity thief creates a false criminal record in your name, you have additional rights.

- **You have the right** to an expedited proceeding in Superior Court for getting a judge’s order finding that you are factually innocent. The judge may order the deletion, sealing, or labeling of records.

- **You have the right** to be listed in the California Department of Justice’s Identity Theft Victim Registry. This gives victims of criminal identity theft a mechanism for confirming their innocence.

For more information on identity theft, including an *Identity Theft Victim Checklist*, go to [www.oag.ca.gov/idtheft](http://www.oag.ca.gov/idtheft).

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<sup>8</sup> California Civil Code Section 1798.93.

<sup>9</sup> California Penal Code Section 530.6.

<sup>10</sup> California Penal Code Sections 530.6-530.7.