

Fair and Accurate Credit Transaction Act (FACTA)

FACTA is the Fair and Accurate Credit Transaction Act, a new federal law designed to reduce the risk of consumer fraud and identify theft created by improper disposal of consumer information. The FACTA Disposal Rule:

- Applies to every household and every business in the United States
- Requires the Destruction of all Consumer information before it is discarded
- Stresses potentially severe penalties for those who violate

The Federal Trade Commission (FTC) has issued their FACTA Disposal Rule. While the FTC has singled out lenders, insurers, employers, landlords, government agencies, mortgage brokers and automobile dealers, it applies to every individual and every business subject to their jurisdiction. According to the FTCs FACTA Disposal Rule:

Any person who maintains or otherwise possesses consumer information for a business purpose must properly destroy discarded consumer information. Further, every person or business must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

What are Reasonable Measures?

Reasonable measures are defined in FACTA as burning, pulverizing, or shredding of papers containing consumer information or entering into a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule.

Violators Will be Prosecuted

FACTA provides for substantial civil liability. In some cases, consumers may be entitled to recover their actual damages sustained as a result of a violation of the rule which, in the case of identity theft, could be very large. In other cases, consumers may be able to recover statutory damages of up to \$1,000 for each consumer affected by a violation of the rule.

Where large numbers of consumers are affected, they may be able to bring class actions seeking potentially massive statutory damages. If 1,000 consumers were affected, for example, a class action might seek up to one million in statutory damages. Courts are also authorized to award punitive damages in either an individual suit or a class action. Finally, a successful plaintiff, or class of plaintiffs, may recover reasonable attorney's fees.

The federal government is also authorized to bring enforcement actions in federal court for violations of the disposal rule. In some cases, the government may bring an action in federal district court for up to \$2,500 in penalties for each independent violation of the rule.

The states are also authorized to bring actions on behalf of their residents and, in appropriate cases, may recover up to \$1,000 for each willful or negligent violation of the rule. In cases involving multiple violations, such statutory penalties might quickly add up to very large sums. As with private lawsuits, moreover, the state may recover its attorney's fees, if successful in such an action.

How to Comply....

Contracting with a [National Association for Information Destruction \(NAID\) member](#) like The Paper Exchange to shred all discarded consumer information is the best way to comply with FACTA. Service can be arranged on a schedule that suits any home or office situation. It is the most economical alternative no matter how small or large the need. Most importantly, your documents are securely disposed by professionals who are insured, bonded, and trained in document shredding.