

Ordinance No. 122991

Council Bill No. 116530

AN ORDINANCE approving and adopting an Identity Theft Prevention Program; and ratifying and confirming certain prior acts.

### The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *[Signature]*  
Councilmember

### Committee Action:

y - JG  
S/26/09      Pass      8-0 (TB examined)

CF No. \_\_\_\_\_

Date Introduced:	<u>5-18-09</u>	
Date 1st Referred:	To: (committee)	
<u>5-18-09</u>	<u>Finance &amp; Budget</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>5-26-09</u>	<u>8-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>5-27-09</u>	<u>6-4-09</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input type="checkbox"/>
<u>6-4-09</u>	<u>28</u>	F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: \_\_\_\_\_  
(initial/date)

*Law Department*

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed
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ORDINANCE 122991

1  
2 AN ORDINANCE approving and adopting an Identity Theft Prevention Program; and ratifying  
3 and confirming certain prior acts.

4 WHEREAS, the Federal Trade Commission ("FTC") issued regulations requiring financial  
5 institutions and creditors that maintain "covered accounts" to develop and implement  
6 Identity Theft Prevention Programs pursuant to the Fair and Accurate Credit Transaction  
Act of 2003; and

7 WHEREAS, these Identity Theft Prevention Programs must provide for the identification,  
8 detection, and response to patterns, practices or specific activities which could indicate  
identity theft; and

9 WHEREAS, the City of Seattle ("City") maintains certain continuing accounts with utility  
10 service customers and with other customers for purposes that involve multiple payments  
11 or transactions, and such accounts are "covered accounts" within the meaning of the FTC  
regulations; and

12 WHEREAS, in order to comply with the FTC regulations, City staff have developed an Identity  
13 Theft Prevention Program and recommend that it be approved and adopted by the City  
14 Council; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The City of Seattle Identity Theft Prevention Program attached as Exhibit A to  
17 this Ordinance is hereby approved and adopted.

18 Section 2. Any acts consistent with the authority of this Ordinance taken after the  
19 passage of this Ordinance are ratified and confirmed.

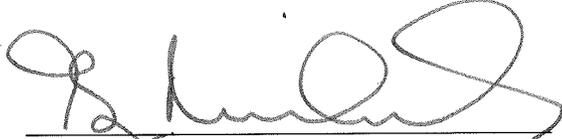
20 Section 3. This Ordinance shall take effect and be in force thirty (30) days from and after  
21 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
22 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
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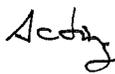
1 Passed by the City Council the 26<sup>th</sup> day of May, 2009, and signed by me in open  
2 session in authentication of its passage this 26<sup>th</sup> day of May, 2009.

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4   
President \_\_\_\_\_ of the City Council

5 Approved by me this 4<sup>th</sup> day of June, 2009.

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7   
8 Gregory J. Nickels, Mayor

9 Filed by me this 4<sup>th</sup> day of June, 2009.

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12  \_\_\_\_\_  
Acting City Clerk

13 (Seal)

14 Attachment:

15 Exhibit A – City of Seattle Identity Theft Prevention Program  
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**CITY OF SEATTLE**  
**IDENTITY THEFT PREVENTION PROGRAM**

**I. PROGRAM ADOPTION**

The City of Seattle ("City") developed this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flag Rule ("Rule"), which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. 16 C.F.R. § 681.2. After consideration of the size and complexity of the City's operations and account systems, and the nature and scope of the City's activities, the Director of Executive Administration determined that this Program was appropriate for the City. The City Council approved this Program by the adoption of Ordinance 122991 on the 26<sup>th</sup> day of May, 2009.

**II. PROGRAM PURPOSE AND DEFINITIONS**

**A. Fulfilling requirements of the Red Flag Rule**

Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to the size, complexity and nature of its operation. Each program must contain reasonable policies and procedures to:

1. Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
2. Detect Red Flags that have been incorporated into the Program;
3. Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
4. Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

**B. Red Flags Rule definitions used in this Program**

For the purposes of this Program, the following definitions apply:

1. "Account" means a continuing relationship established by a person with a financial institution or creditor to obtain a product or service for personal, family, household or business purposes.
2. "Covered Account" means:
  - a. Any account the City offers or maintains primarily for personal, family or household purposes, that involves or is designed to permit multiple payments or transactions; and



b. Any other account that the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft.

3. "Creditor" has the same meaning as defined in 15 U.S.C. 1691a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the City.

4. "Customer" means a person or business entity that has a covered account with the City.

5. "Financial Institution" means any entity that holds a transaction account belonging to a customer.

6. "Identifying Information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including name, address, telephone number, social security number, date of birth, government-issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

7. "Identity Theft" means fraud committed using the identifying information of another person.

8. "Red Flag" means a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.

9. "Service Provider" means a person or business entity that provides a service directly to the City relating to or in connection with a covered account.

### **III. IDENTIFICATION OF RED FLAGS.**

In order to identify relevant Red Flags, the City considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The City identifies the following Red Flags and will train appropriate staff to recognize these Red Flags as they are encountered in the ordinary course of City business:

#### **A. Suspicious Documents Red Flags**

1. Identification document or card that appears to be forged, altered or inauthentic;
2. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
3. Other document with information that is not consistent with information provided by the person opening a new covered account, by the customer presenting the identification, or with existing customer information on file (such as a signature card or recent check).



4. Application for service that appears to have been altered or forged.

**B. Suspicious Personal Identifying Information Red Flags**

1. Identifying information presented that is inconsistent with other information the customer provides;

2. Identifying information presented that is inconsistent with external sources of information;

3. Identifying information presented is associated with common types of fraudulent activity, such as use of a fictitious billing address or phone number;

4. Identifying information presented that is consistent with known fraudulent activity, such as presentation of an invalid phone number or fictitious billing address used in previous fraudulent activity;

5. Social security number presented that is the same as one given by another customer;

6. An address or phone number presented that is the same as that of another person;

7. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law, social security numbers must not be required); and

8. A person's identifying information is not consistent with the information that is on file for the customer.

**C. Suspicious Account Activity or Unusual Use of Account Red Flags**

1. Change of address for an account followed by a request to change the account holder's name;

2. Payments stop on an otherwise consistently up-to-date account;

3. Account used in a way that is not consistent with prior use (example: very high activity);

4. Mail sent to the account holder is repeatedly returned as undeliverable;

5. Notice to the City that a customer is not receiving mail sent by the City;

6. Notice to the City that an account has unauthorized activity;

7. Breach in the City's computer system security; and

8. Unauthorized access to or use of customer account information.



**D. Alerts, Notifications or Warnings from a Consumer Reporting Agency Red Flags**

1. Report of fraud accompanying a credit report;
2. Notice or report from a credit agency of a credit freeze on a customer or applicant;
3. Notice or report from a credit agency of an active duty alert for an applicant;
4. Notice or report from a credit agency of an address discrepancy; and
5. Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity, such as an unusual increase in the volume of credit inquiries, unusual increase in the number of established credit relationships, or a material change in the use of credit.

**E. Alerts from Others Red Flags**

1. Notice to the City from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

**IV. PREVENTING AND MITIGATING IDENTITY THEFT**

In the event City personnel detect any Red Flags as described in this Program, such personnel must, depending on the degree of risk of Identity Theft posed by the Red Flag, take one or more of the following actions:

1. Continue to monitor an account for evidence of Identity Theft;
2. Contact the customer;
3. Change any passwords or other security devices that permit access to accounts;
4. Not open a new account;
5. Close an existing account;
6. Reopen an account with a new number;
7. Notify law enforcement; or
8. Determine that no response is warranted under the particular circumstances.

**V. PROGRAM UPDATES**

The Director of Executive Administration, or their designee, shall serve as Program Administrator. The Program Administrator shall periodically review and update this Program



to reflect changes in risks to customers and the soundness of the City from Identity Theft. In doing so, the Program Administrator shall consider the City's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the City's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

## **VI. PROGRAM ADMINISTRATION.**

### **A. Oversight**

Responsibility for implementing and updating this Program lies with the Program Administrator. The Program Administrator will be responsible for the Program's administration, for ensuring appropriate training of City staff, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, and for considering periodic changes to the Program.

### **B. Staff Training and Reports**

City staff responsible for implementing the Program shall be trained in the detection of Red Flags and the responsive steps to be taken when a Red Flag is detected. Staff should prepare a report at least annually for the Program Administrator, including an evaluation of the effectiveness of the Program with respect to opening accounts, existing covered accounts, service provider arrangements, significant incidents involving identity theft and responses, and recommendations for changes to the Program.

### **C. Service Provider Arrangements**

In the event the City engages a service provider to perform an activity in connection with one or more accounts, the City shall take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft:

1. Require, by contract, that service providers have such policies and procedures in place; and
2. Require, by contract, that service providers review the City's Program and report any Red Flags to the Program Administrator.



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Department of Executive Administration	Teri Allen /684-5226	Lawand Anderson/233-2780

**Legislation Title:** AN ORDINANCE approving and adopting an Identity Theft Prevention Program; and ratifying and confirming certain prior acts.

• **Summary of the Legislation:**

The City of Seattle developed an Identity Theft Prevention Program pursuant to the Federal Trade Commission's Red Flag Rule, which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. After consideration of the size and complexity of the City's operations and account systems, and the nature and scope of the City's activities, the Director of Executive Administration determined that this program was appropriate for the City.

• **Background**

The Fair and Accurate Credit Transaction Acts of 2003 is a United States federal law. Within this law are provisions that require businesses, such as utilities, to assist in reducing identity theft by creating Identity Theft Prevention Programs. By May 1, 2009 the City of Seattle must develop and implement an Identity Theft Prevention Program in connection with both new and existing accounts. The attached legislation accomplishes this mandate.

- *Please check one of the following:*

**This legislation does not have any financial implications.**

While this legislation does not have immediate financial implications, it may have future fiscal impacts if the City engages a third party resource or needs to devote significant staff time to program implementation and monitoring.





# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

April 28, 2009

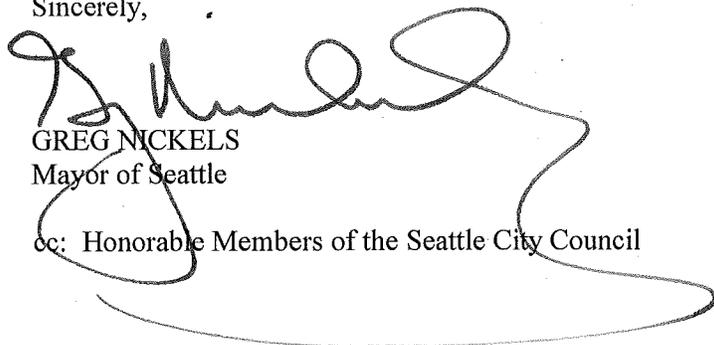
Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill adopting the proposed Identity Theft Prevention Program for the City of Seattle, which implements strict requirements regarding the verification of the identity of residential customers seeking to establish a utility or other transactional account with the City of Seattle. Implementation of the Identify Theft Program will also enable the City to detect and respond to "red flags," which are defined as patterns, practices, or specific activities that indicate the possible existence of identity theft on new accounts. This legislation is being submitted pursuant to the Federal Trade Commission's Red Flag Rule, which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003.

Thank you for your consideration of this legislation, which will provide identity theft protection for all citizens who establish accounts with the City of Seattle. Should you have questions, please contact Teri Allen at 206-684-5226.

Sincerely,

A large, handwritten signature in black ink, appearing to read "Greg Nickels".

GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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240063  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

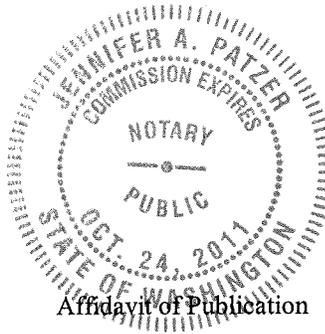
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122991 ORDINANCE

was published on

06/10/09

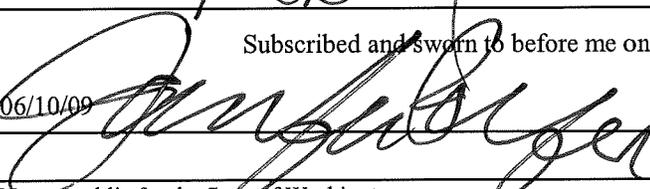
The amount of the fee charged for the foregoing publication is the sum of \$ 99.05, which amount has been paid in full.



Affidavit of Publication

  
Subscribed and sworn to before me on

06/10/09

  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### ORDINANCE 122991

AN ORDINANCE approving and adopting an Identity Theft Prevention Program; and ratifying and confirming certain prior acts.

WHEREAS, the Federal Trade Commission ("FTC") issued regulations requiring financial institutions and creditors that maintain "covered accounts" to develop and implement Identity Theft Prevention Programs pursuant to the Fair and Accurate Credit Transaction Act of 2003; and

WHEREAS, these Identity Theft Prevention Programs must provide for the identification, detection, and response to patterns, practices or specific activities which could indicate identity theft; and

WHEREAS, the City of Seattle ("City") maintains certain continuing accounts with utility service customers and with other customers for purposes that involve multiple payments or transactions, and such accounts are "covered accounts" within the meaning of the FTC regulations; and

WHEREAS, in order to comply with the FTC regulations, City staff have developed an Identity Theft Prevention Program and recommend that it be approved and adopted by the City Council; NOW, THEREFORE,

### BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City of Seattle Identity Theft Prevention Program attached as Exhibit A to this Ordinance is hereby approved and adopted.

Section 2. Any acts consistent with the authority of this Ordinance taken after the passage of this Ordinance are ratified and confirmed.

Section 3. This Ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within

ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of May, 2009, and signed by me in open session in authentication of its passage this 26th day of May, 2009.

Richard Conlin

President of the City Council

Approved by me this 4th day of June, 2009.

Gregory J. Nickels, Mayor

Filed by me this 4th day of June, 2009.

(Seal) Judith Pippin

City Clerk

Attachment:

Exhibit A - City of Seattle Identity Theft Prevention Program

See City Clerk for Attachment

Publication ordered by JUDITH PIPPIN,  
City Clerk

Date of publication in the Seattle Daily  
Journal of Commerce, June 10, 2009.

6/10(240063)