



*South Dakota*

# CONSUMER HANDBOOK

**OFFICE OF ATTORNEY GENERAL**

Dear South Dakotans,

One of the most important parts of my job as your Attorney General is being entrusted with protecting the rights of our consumers. Protecting your privacy, protecting our citizens from fraud and unscrupulous business practices, these are duties I am committed to upholding.



The Division of Consumer Protection is an invaluable tool for all South Dakotans. It provides education, advice, and assistance on a myriad of topics ranging from identity theft, to recognizing scams and frauds, to knowing your rights as a consumer.

To that end, the book you are now holding has been prepared to help educate and assist you in protecting your privacy and providing the resources for both state and federal contacts necessary to keep you and your loved ones safe from bad actors.

An informed consumer is the best line of defense against scams and fraud. The best way to become an informed consumer is to make use of this book.

If you have any questions or would like additional information, please do not hesitate to contact my office by calling 1-800-300-1986 or visit our website at

[www.consumer.sd.gov](http://www.consumer.sd.gov)

Very truly yours,

A handwritten signature in blue ink that reads "Jason R. Ravensborg". The signature is fluid and cursive, written over a light blue circular watermark.

Jason R. Ravensborg  
South Dakota Attorney General



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THIS HANDBOOK IS FOR INFORMATIONAL PURPOSES AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR AS THE POLICY OF THE STATE OF SOUTH DAKOTA. IF YOU NEED ADVICE ON A PARTICULAR ISSUE, YOU SHOULD CONSULT AN ATTORNEY OR OTHER EXPERT. COPIES OF THIS HANDBOOK WERE PRINTED BY THE SD ATTORNEY GENERAL'S OFFICE AT THE COST OF \$ \_\_\_\_ PER HANDBOOK.

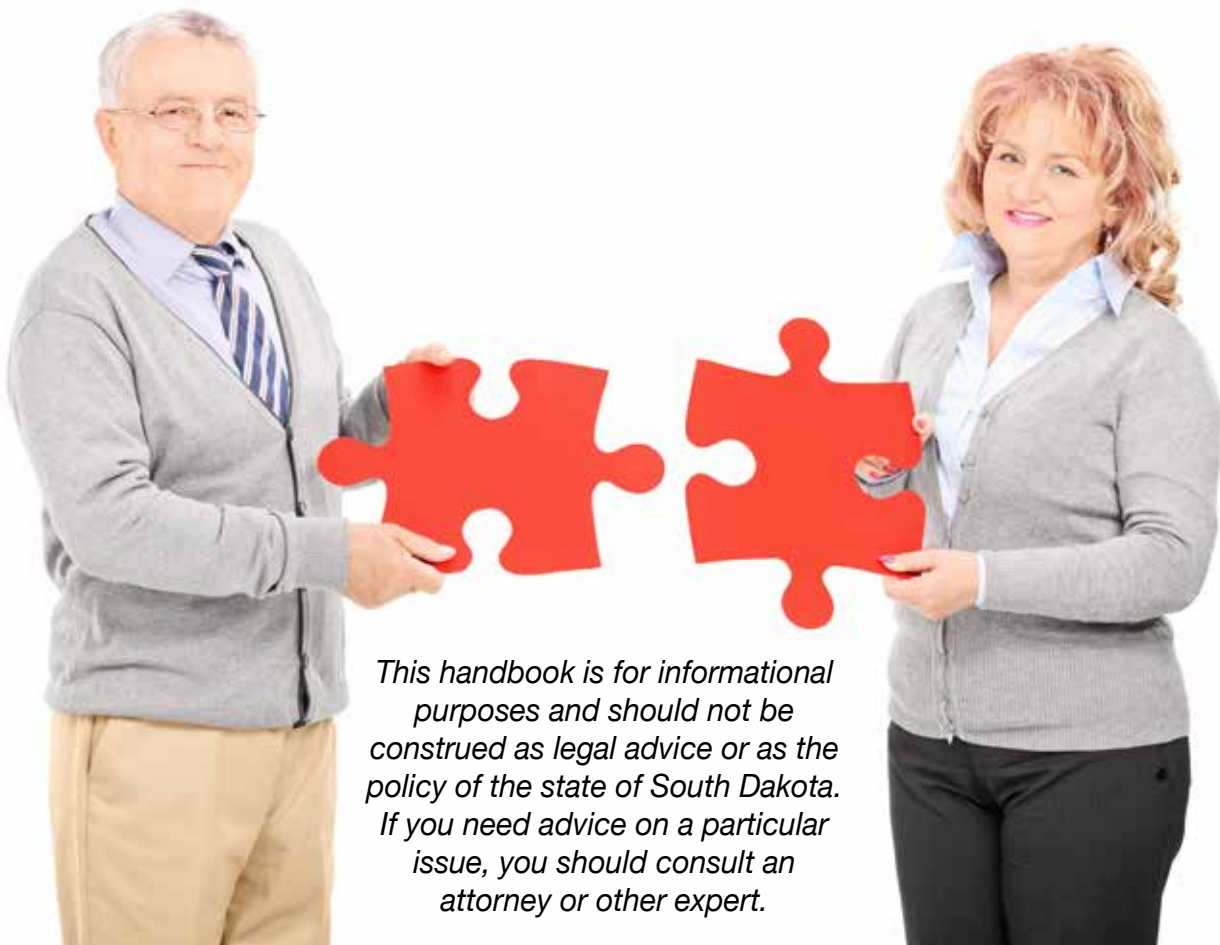
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## TIPS TO REMEMBER

- Everyone, regardless of age, sex, education level, financial situation or where they live, is a potential victim—including seniors.
- Don't be afraid to hang up—it's okay to be rude.
- Seniors may be targeted more because they are perceived by scam artists to have more free time and tend to be alone more.
- Educate yourself and talk to others. These are the most effective ways to prevent scams.
- There will never be a solution to eliminate scam artists—they are constantly changing their methods to keep from getting caught.
- Don't be afraid to ask a neighbor, family member, friend, banker, or trusted advisor if you have doubts about an offer or business.
- Call law enforcement immediately if you think you have been victimized.
- Never accept the help of someone who calls you and offers to help recover the losses in a scam "for a small fee." Odds are, it's the same scam artist coming back for more.
- Protect your personal information by shredding the following:
  - Receipts
  - Copies of credit applications
  - Physicians' statements
  - Expired charge cards
  - Mailing labels from magazines
  - Any item that might have account numbers customer numbers or membership numbers.
  - Credit card statements
  - Insurance forms
  - Bank checks and statements
  - Credit cards and other offers of credit



*This handbook is for informational purposes and should not be construed as legal advice or as the policy of the state of South Dakota. If you need advice on a particular issue, you should consult an attorney or other expert.*

## CREDIT CARDS

Credit cards are nothing more than pre-approved loans. Credit cards allow you to pay for your purchases later. You are essentially borrowing money from the credit card issuer with the understanding that you can pay the money back at the end of your statement period.

As a cardholder, you have a legal right to fair treatment ~

The Truth in Lending Act requires issuers to explain all the terms of the contract in detail, in language the average adult can understand.

Problems with you bill? The Fair Credit Billing Act gives you the right to dispute, correct billing errors and protects your credit rating during the process.

Credit cards are one of the quickest ways to build your credit, but they can also be the quickest way to ruin your credit by not paying your bill on time.

### CARD ACT PROTECTIONS

Federal law provides additional protections to consumers. The Credit Accountability, Responsibility and Disclosure (CARD) Act provides the following additional protections for consumers:

- Low advertised interest rates, known as “teaser” rates, must remain in effect for at least six months after the card is issued.
- Card issuers must periodically review rate increases and must reduce the rate if a higher rate is unfounded. In this case, however, exceptions are allowed for cards in which the rate is variable based on an existing independent index or where the rate increase is due to the expiration of a promotional rate.
- In most cases an increased rate cannot be applied to an existing balance.
- Payments must be applied first to the balance with the highest interest rate.
- Issuers may not charge processing fees for payments made online, over the phone or by mail. However, the issuer may charge a fee for expedited processing.
- The issuer must mail the monthly statement at least twenty-one (21) days prior to the payment due date.
- Penalty fees, including late fees and over limit fees, must be reasonable and balanced as determined by the Federal Reserve.
- Fees to obtain a credit card cannot exceed 25% of the initial credit limit.



### Here are some tips when becoming a credit card user:

- It is best to pay off your balance every month. If you do not, you will be paying interest on any remaining balance.
- Shop for the lowest interest rate and lowest annual fee.
- Don't run up a balance on a "teaser" rate card. An attractive interest rate offer is for a temporary period, the increased rate may be more than you can afford.
- Avoid late payment penalties by always paying at least the minimum balance on time.
- Think twice about signing up for "over-the-limit" protection. It may sound good, but it can be very expensive, especially on smaller transactions. It is better to have the transaction rejected so that you can choose a less expensive form of payment.
- Be cautious about disclosing your account number over the telephone or internet, unless you know you are dealing with a reputable company.
- Never put your account number on the outside of an envelope or on a postcard.
- Draw a line through blank spaces on charge slips above the total so the amount cannot be changed.
- Never sign a blank charge slip.
- Save your receipts to check against your monthly statements.
- Cut up or shred old credit cards (cutting through the account number) before disposing of them.
- Open monthly statements promptly and compare them to your receipts. Report mistakes or discrepancies as soon as possible to the address listed on your statement. Under federal law, the card issuer must investigate errors if you report them within sixty (60) days from the time a charge is posted to your account.
- Keep a record of your account numbers, expiration dates, and telephone numbers of each card issuer so you can quickly report a loss.

### Can I get a credit card if I'm under 21?

In 2009, the U.S. CARD Act created new laws designed to prevent some abusive practices in the industry. This law regulates companies issuing credit cards to minors.

Today, you must be at least 18 years old to get a credit card. Applicants under 21 need to prove their financial independence via either income or assets – in other words your ability to repay the debt. If you do not have enough independent income, you'll need a cosigner to apply for a credit card.

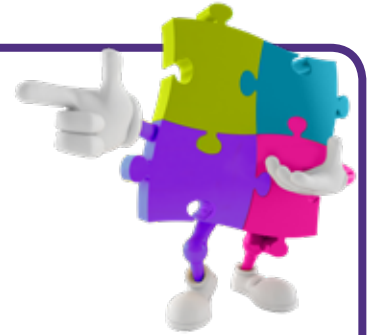


## DEBIT CARDS

Using a debit card is like paying with a check, only the money comes immediately out of your bank account electronically. If there isn't enough money in your account to cover the debit, your bank may still honor the charge, but will probably add costly overdraft fees.

### Here are some tips when using a debit card:

- ✚ Never spend more than you have in your account. Overdraft fees can be very costly.
- ✚ Never give out your personal identification number (PIN) over the telephone.
- ✚ Don't carry your PIN in your wallet, purse or write it on your ATM or debit card.
- ✚ Never write your PIN on the outside of a deposit slip, an envelope, or other papers that could be easily lost or stolen.
- ✚ Carefully check ATM or debit card transactions before you enter the PIN or before you sign the receipt; the funds for this item will be quickly transferred out of your checking or other deposit account.
- ✚ Periodically check your account activity. This is particularly important if you bank online. Compare the current balance and recent withdrawals or transfers to those you've recorded, including recently written checks, ATM and debit card withdrawals and purchases. If you notice transactions you didn't make, or if your balance has dropped suddenly without activity by you, immediately report the problem to your card issuer.
- ✚ For small purchases, consider using cash. While a debit card can be convenient, the imposition of an overdraft fee may quadruple the cost of that cup of coffee or hamburger.



### **BLOCKING**

In some debit transactions, consumers may find more money initially charged against their accounts than they expected. This is a legal business practice called “blocking.”

Blocking most often occurs when you check into a hotel, rent a car, or pump gas. The company usually contacts your credit card issuer with an estimate of your bill. This reduces the amount available in your account. For example, you use your card when you check into a \$100-a-night hotel for five nights. The hotel will put a hold on at least \$500 and may add charges for “incidentals”, like food or beverages, to the blocked amount. If you pay your bill with the same card you used at check-in, your final charge most likely will replace the block in a day or two. If you pay your bill with a different card (or with cash or a check) the block may last up to fifteen (15) days after you've checked out because the card issuer doesn't know you paid another way. Before using your card, ask the amount that will be blocked, what determines that amount, and how long the block will remain on your card.



### What's the difference?

**ATM Cards** - An ATM Card is a PIN-based card. That means that in addition to using it at ATM's, you may also be able to use it to make purchases if the merchant is using one of the same electronic ATM networks that's listed on the back of your card.



**Debit Cards** – A debit card looks just like a regular ATM card, and you can use it at ATM's. The difference is that a debit card has Visa or Mastercard logo on its face. That means you can use a debit card wherever Visa or Mastercard are accepted. When using a debit card, the money is deducted from your banking account immediately. A debit card does not have the same protections as a credit card should it be lost or stolen.

**Credit Cards** - You're borrowing money to be repaid later. Making the minimum payments and making them on time will have positive results with your credit score. You have a dispute mechanism with this type of card – 60 days from the time a charge is posted to your account.

### EMV Chip Credit Card – WHAT is it and WHY should I use it?

Most everyone should have a card that has the new chip in it, this could be a credit or debit card. EMV was named for Europay, MasterCard, and Visa, the companies who created the standard – it is a safer type of transaction as the chip creates a unique code for each transaction and sends that code through the credit card processing system to authorize the transaction.

## MOBILE BANKING

Mobile banking is very convenient in today's digital age with many banks offering impressive apps. The ability to deposit a check, to pay for merchandise, to transfer money to a friend or to find an ATM instantly are reasons why people choose to use mobile banking. However, establishing a secure connection before logging into a mobile banking app is important or else a client might risk personal information being compromised.

Cybersecurity has become increasingly important in many mobile banking operations. Cybersecurity encompasses a wide range of measures taken to keep electronic information private and avoid damage or theft. Three main types of cyber-attacks can occur.

- Backdoor attacks, in which thieves exploit alternate methods of accessing a system that don't require the usual means of authentication. Some systems have backdoors by design; others result from error.
- Denial-of-service attacks prevent the rightful user from accessing the system. For example, thieves might enter a wrong password enough times that the account is locked.

- Direct-access attack includes bugs and viruses, which gain access to a system and copy its information and/or modify it.

**Consumers should be sure the connection is always private and secure before performing mobile banking tasks.**

## CREDIT CARD, ATM & DEBIT CARD LOSS

If your credit, ATM, or debit card is lost or stolen, federal law limits your liability for unauthorized charges. Your protection against unauthorized charges depends on the type of card – and when you report the loss. The Fair Credit Billing Act (FCBA) and the Electronic Fund Transfer Act (EFTA) offer protection if your credit, ATM, or debit cards are lost or stolen.

### **Credit Card Loss or Fraudulent Charges.**

Under the FCBA, your liability for unauthorized use of your credit card tops out at \$50. However, if you report the loss before your credit card is used, the FCBA says you are not responsible for any charges you didn't authorize. If your credit card number is stolen, but not the card, you are not liable for unauthorized use.



### **ATM or Debit Card Loss or Fraudulent**

**Transfers.** If you report an ATM or debit card missing before someone uses it, the EFTA says you are not responsible for any unauthorized transactions. If someone uses your ATM or debit card before you report it lost or stolen, your liability depends on how quickly you report it. Reporting times for liability are:

- Before any fraudulent transactions have been made - \$0
- Within 2 business days - \$50
- 2-60 business days later - \$500
- More than 60 business days later - all the money taken from your ATM/debit card

**Credit Card Fee - Checkout Fee** Allows merchants to pass their payment processing costs to consumers who pay with a credit card. A merchant who chooses to exercise this surcharge, sometimes referred to as a “checkout fee,” could increase your credit card purchase amount by as much as 4% (the maximum allowed). Under the settlement:

- The surcharge cannot exceed the amount that the merchant actually pays to accept credit cards – between 1.5% and 4% of the transaction amount.
- Surcharges can be imposed on commercial and consumer credit card transactions only, not on purchases made with debit cards or prepaid cards.
- Merchants must disclose the credit card surcharge clearly – at the store entrance and the point of sale or on the homepage if the merchant does business on the internet.

- The disclosure must include the amount of the surcharge, the fact that the fee is being charged by the merchant, and that the fee does not exceed the merchant's cost to accept credit cards.
- The dollar amount of the surcharge must appear on the transaction receipt.

**Card Scams.** A credit card scam can come in many forms. For example:

- **Requests for your account information ('phishing' scams).** Phishing emails are fake emails usually pretending to be from banks or other financial institutions. They make up some reason for you to give your account details and then use these details to steal your money.
- **Phony fraud alerts.** Scammers pretend to be from your bank or financial institution and tell you that there is a problem with your account. They ask for your account details to protect your money, but then use these details to steal your money.
- **Card skimming.** Card skimming is the illegal copying of information from the magnetic strip of a credit or ATM card. This can create a fake or 'cloned' card with your details on it.

Perform a **SCAN** before sliding or inserting your card into card processor terminal.

**S:** Scan for hidden cameras designed to record you typing your PIN. They will be mounted near the keypad. Always cover your hand while typing your PIN.

**C:** Compare the card reader and keypad to the rest of the machines. Colors and styles should all match, and graphics should be aligned.

**A:** Assess for obvious signs of tampering i.e. broken or dented panels, or a security seal may be broken or if it appears to have been lifted and replaced.

**N:** Nudge the card reader and keypad. Card skimmers and fake keypads are meant to be removed so if they feel loose it may be a skimmer.




Check over your credit card and bank account statements as soon as you get them to ensure that no one is using your account without your permission.

## CREDIT CARD EQUIPMENT

Be a smart business owner when selecting a credit card payment processor and be wary of credit card processing service telephone solicitations. If a salesperson stops into your place of business to sell you a processor this could potentially be considered a Door-to-Door Sale in which you have the option to reverse the sale within 3 days. However, if the entire transaction occurs over the phone, the law does not provide the same protection – See *Door-to-Door Section*

**What is credit card processing?** Credit card processors are intermediaries between credit and debit card companies and businesses that accept credit and debit card



payments from their customers. Businesses that accept credit or debit cards as payment for goods or services must use a processor to process and deposit the payments into the business's bank account.

Businesses pay for credit card processing through fees charged by the processor and credit card companies, which usually include a "discount rate" that is a percentage of each sale and a "transaction fee" that is a fixed amount charged every time a customer swipes his or her card. Most small businesses sign up for credit card processing through service sellers who service the processing account.

**What does chip technology mean for small business?** For your small business, EMV compliance simply means upgrading your terminal to a model that can process payment cards via EMV chips. If you're still processing credit cards with a magnetic strip only, your business will be held automatically responsible for any fraudulent charges made by someone using a chip card. As long as your business is EMV compliant, you won't be liable for fraudulent swiped transactions whether they come from chip transactions or swipe transactions.

For small businesses that process significant, or high numbers of small-dollar transactions, the costs of upgrading to an EMV compliant terminal may be prohibitive. They'll have to weigh the expense of upgrading against the possible fraud losses from not upgrading.

### **Businesses be WARY!**

- Some credit card processing sellers lock businesses into expensive long-term equipment leases by attempting to sign businesses up with third-party companies that lease credit card swiping equipment, also called terminals. Equipment lease agreements are typically several years long and contain hefty early-cancellation fees. Some businesses have been duped into long-term equipment leases when they could have purchased the same equipment for far less money.
- Some credit card processing sellers use this technology change to pressure small businesses into signing new processing contracts. Before agreeing to enter into another processing contract, check with your current processor to determine if you need new equipment. If you do need new equipment, you should shop around and not feel pressured to sign up with the first solicitor that calls you.
- When a salesperson won't provide you with a contract to review before you sign.
- Use caution when dealing with a salesperson over the phone.

**EXAMPLE:** A credit card terminal might cost \$300.00 to purchase outright, but under a lease agreement, that same terminal might cost \$99.00 per month to lease, but your lease is for 48 months = \$4800.00.



## Before you sign the contract:

- Read the fine print. Read all the pages before signing.
- Beware of pushy sales tactics.
- Review the company's reputation online.
- Negotiate processing fees and penalty provisions. Interchange fees are set by credit card companies, the markup added on by credit card processing sellers may be negotiable.
- GET ORAL PROMISES IN WRITING.
- Check early-cancellation fee terms.
- Always review your monthly account statements to ensure you are getting the rates you negotiated.

## OPT-OUT OF PRE-SCREENED OFFERS OF CREDIT

The three (3) major credit reporting agencies offer a toll-free number that enables you to “opt-out” of having pre-screened credit offers sent to you. By calling 1-888-5-OPTOUT (567-8688) or by visiting [www.optoutprescreen.com](http://www.optoutprescreen.com), your name will be removed from the mailing list for five (5) years. Your request is shared with all three credit reporting agencies.

It is important to follow up with **all three (3) credit reporting agencies** to make sure this has been done. You can instruct the agencies to not share your personal information for promotional purposes, which is an important step towards eliminating unsolicited mail. To prevent your personal information from being shared, send a letter, call, or e-mail to each of the credit reporting agencies.

### A “prescreened” offer of credit? What’s that?

Many companies that solicit new credit card accounts and insurance policies use prescreening to identify potential customers for the products they offer. Prescreened offers, sometimes called “preapproved” offers, are based on information in your credit report that indicates you meet criteria set by the offeror.

### How does prescreening work?

A creditor or insurer establishes criteria, like a minimum credit score or minimum annual salary, and asks a consumer reporting company for a list of people in the company's database who meet the criteria.

### Can prescreening hurt my credit report or credit score?

No. There will be “inquiries” on your credit report showing which companies obtained your information for prescreening, but those inquiries will not have a negative effect on your credit report or credit score.

**To Opt-Out Permanently:** You may begin the permanent opt-out process online at [www.optoutprescreen.com](http://www.optoutprescreen.com). To complete your request, you must return the signed Permanent Opt-Out Election form, which will be provided after you initiate your online request.

## ADVANCED FEE LOANS

Looking for a loan or credit card but don't think you'll qualify? Have you been turned down by a bank because of your poor credit history? You may be tempted by ads and websites that guarantee loans or credit cards, regardless of your credit history. Rule number one: Legitimate lenders never "guarantee" or say that you are likely to get a loan or a credit card before you apply, especially if you have bad credit, no credit, or a bankruptcy.



### Six Sure Signs of an Advance-Fee Loan Scam

- **A lender who isn't interest in your credit history.** Banks and other legitimate lenders generally evaluate creditworthiness and confirm the information in an application before they grant firm offers of credit to anyone.
- **Fees that aren't disclosed clearly or prominently.** If you have poor credit or haven't established a good credit record yet, it's unlikely that anyone will lend you money. Your credit history is one of the main things that legitimate lenders use to decide if you are a good credit risk. Ads that say "Bad Credit? No Problem" or "No Hassle Guaranteed" often indicate a scam. Go somewhere else.
- **A loan that is offered by phone.** It is illegal for companies doing business by phone in the U.S. to promise you a loan or credit card and ask you to pay for it before they deliver.
- **A lender who uses a copy-cat or wanna-be name.** Crooks give their companies names that sound like well-known or respected organizations and create websites that look professional. Always get a company's phone number from a directory assistance and call to check they are who they say they are. Physical address should be obtained, a PO Box as its address doesn't give you anything to go on and should be a RED FLAG. Always check out a lender – if you have questions contact the Attorney General's Consumer Protection Division at 1-800-300-1986 before you finalize the deal.
- **Do business with licensed companies.** Ask the State Banking Division 605-773-3421 about the licensing requirements for lenders and loan brokers and find out if the company has complied.
- **Have proof of what you were promised.** Get the agreement in writing or in an electronic form that you can use to document the terms and conditions. Make sure you understand all requirements before entering into any agreement. Don't make a payment for a loan or credit card directly to an individual; legitimate lenders don't ask anyone to do that. In addition, don't use a wire transfer service or send money orders for a loan. You have little recourse if there's a problem with a wire transaction, and legitimate lenders don't pressure their customers to wire money.

## Dealing with Debt

**If you have debt problems, try to solve them with your creditors as soon as you realize you won't be able to make your payments.** If you can't resolve the problems yourself or you need help to do it, you may want to contact a credit counseling service. Nonprofit organizations in every state counsel and educate people and families on debt problems, budgeting, and using credit wisely. Often, these services are free or low-cost.



## **IDENTITY THEFT**

Identity theft is one of the fastest growing crimes in America. Every day you share personal information about yourself with others. It's so routine that you may not even realize you're doing it. You may write a check at the grocery store, charge tickets to the ball game, rent a car, file your tax returns, schedule a doctor's appointment or apply for a credit card. Each transaction requires you to share personal information such as:


- Bank and credit card account numbers
- Income
- Social Security Number (SSN)
- Name, address, and phone numbers

Identity (ID) theft happens when someone steals your personal information to commit fraud. The identity thief may use your information to fraudulently apply for credit, file taxes, or get medical services. These acts can damage your credit status and cost you time and money to restore your good name.



## **KEEPING YOUR PERSONAL INFORMATION SECURE FOR EVERYDAY LIVING**

- **Lock It Up.** Put your financial documents and records in a safe place at home and lock your wallet or purse in a safe place at work. Keep your information secure from roommates or workers who come into your home.
- **Put Passwords On Your Credit Card, Bank, and Phone Accounts.**
- **Pay Attention to Your Billing Cycles.** Follow up with creditors if your bills don't arrive on time. A missing credit card bill could mean an identity thief has taken over your credit card account and changed your billing address to cover his tracks.
- **Secure your Social Security Number (SSN).** Don't carry your Social Security card in your wallet. Only give out your SSN when necessary – ask how they will safeguard your number, and the consequences of not sharing the SSN.
- **Shred it.** Shredding can prevent “dumpster divers” from getting your personal information.
- **Be Cautious About Where You Leave Personal Information in Your Home.**
- **Destroy It.** Destroy the labels on prescription bottles before you throw them out.



Don't share your health plan information with anyone who offers free health services or products.

- **Grab the Mail.** Take outgoing mail to post office collection boxes or the post office. Promptly remove mail that arrives in your mailbox. If you won't be home for several days, request a vacation hold on your mail.
- **Use the Security Features on Your Mobile Phone.** Passwords and dual authentication may be a hassle but it's another added layer of protection.
- **Notify Your Credit Card Company if You Plan to Travel Out of State.** This allows them to monitor activity on your card closer. If you are a proven identity theft victim, you are only responsible for the first \$50.00 worth of fraudulent charges placed on your credit card account(s).
- **Create Complex Passwords.** While it's a hassle, passwords should be changed, at a minimum, every six (6) months. Choose test questions in which answers cannot be found through public record searches.

### **KEEPING YOUR PERSONAL INFORMATION SECURE ONLINE**

- **Do Not Use Software on Your Computer That Auto-Completes Online Forms.** This can give internet scammers easy access to your personal and credit card details.
- **Safely Dispose of Personal Information.** Before you dispose of a computer or electronic device, get rid of all the personal information it stores. Use a wipe utility program to overwrite the entire hard drive.
- **Encrypt Your Data.** Keep your browser secure. A "lock" icon on the status bar of your internet browser means your information will be safe when it's transmitted. Look for the lock before you send personal or financial information online. To guard your online transactions, use encryption software that scrambles information you send over the internet.
- **Keep Passwords Private.** Use strong passwords. Avoid using easily available information like your mother's maiden name, your birth date, the last four digits of your SSN or your phone number. Be creative: think of a special phrase and use the first letter of each word as your password. Substitute numbers for some words or letters. For example, "I want to see the Pacific Ocean" could become 1W2CtPo.
- **Don't Overshare on Social Networking Sites.** If you post too much information about yourself, an identity thief can find information about your life, use it to answer 'challenge' questions on your accounts, and get access to your money and personal information. Consider limiting access to your networking page to a small group of people. Never post your full name, Social Security number, address, phone number, or account numbers in publicly accessible sites.
- **Read the Privacy Policy on All Websites.** Websites directed to children or that knowingly collect information from kids under 13 must post a notice of their information collection practices.



## **KEEPING YOUR DEVICES SECURE**

- **Use Security Software.** Install anti-virus software, anti-spyware software, and a firewall. Set your preference to update these protections often. Installing these types of programs will help protect against intrusions and viruses that can compromise your computer files and passwords. These programs install security patches for your operating system and other software programs.
- **Avoid Phishing Emails.** Don't open files, click on links, or download programs sent by strangers. Opening a file from someone you don't know could expose your system to a computer virus or spyware that captures your passwords or other information you type.
- **Be Wise About Wi-Fi.** Before you send personal information over your laptop or smartphone on a public wireless network in a coffee shop, library, airport, hotel, or other public place, see if your information will be protected. If you use an encrypted website, it protects only the information you send to and from that site. If you use a secure wireless network, all the information you send on that network is protected. Be aware of fake Wi-Fi Hotspots
- **Lock Up Your Laptop.** Keep financial information on your laptop only when necessary. Don't use an automatic login feature that saves your user name and password, and always log off when you're finished. That way, if your laptop is stolen, it will be harder for a thief to get at your personal information.
- **Read Privacy Policies.** Yes, they can be long and complex, but they tell you how the site maintains accuracy, access, security, and control of the personal information it collects; how it uses the information, and whether it provides information to third parties. If you don't see or understand a site's privacy policy, consider doing business elsewhere.
- **For tips from the federal government and the technology industry about protecting yourself from internet fraud and securing your computer, visit [OnGuardOnline.gov](http://OnGuardOnline.gov)**

## **PROTECTING YOUR SOCIAL SECURITY NUMBER (SSN)**

There are several legitimate reasons for companies and organizations to ask for your social security number (SSN). These can include credit checks, taking out a mortgage, buying a car, or seeking employment. If the SSN is requested by a government agency, look for the Privacy Act notice. This tells you if your SSN is required, what will be done with it, and what happens if you refuse to provide it.

Your employer and financial institutions need your SSN for wage and tax reporting purposes. Other businesses may ask you for your SSN to do a credit check if you are applying for a loan, renting an apartment, or signing up for utilities. There are also many places that ask you for your social security number, this allows them to track you easier if you don't pay your bill. If the entity is not establishing creditworthiness or employment eligibility, ASK the following questions BEFORE you give the SSN:

Why do you need it?  
How will it be used?  
How do you protect it from being stolen?  
What happens if I don't give it to you?  
Are there alternative methods of identification that can be used?  
i.e. Driver's License Number

Politely asking these questions can make a huge difference in whether you must give out your SSN. There is no law that prevents businesses from requesting your SSN.

### **Misuse**

The Social Security Administration Office of the Inspector General provides an avenue for individuals to report waste and abuse within the Social Security Administration's (SSA) programs and operations.

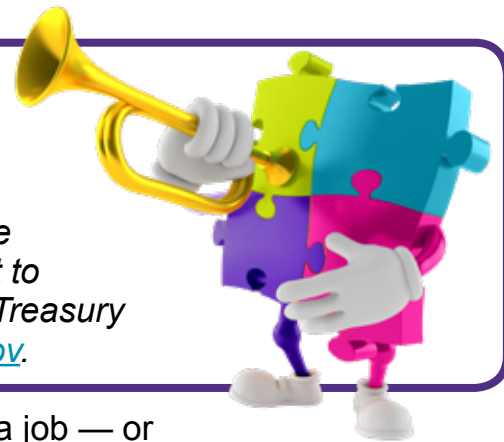
Social Security Administration Fraud Hotline, PO Box 17768, Baltimore MD 21235  
1-800-269-0271 (TTY 1-866-501-2101)— 10:00am-4:00pm EST, [www.ssa.gov](http://www.ssa.gov)

### **Tax-Related Identity Theft**

The IRS uses your Social Security Number (SSN) to make sure your filing is accurate and complete, and that you receive any refund you are due. Identity theft can affect how your tax return is processed. An unexpected notice or letter from the IRS could alert you that someone else is using your SSN.

#### ***Did you know***

*The IRS doesn't start ANY contact with a taxpayer by sending an email, text, social media message, or by making a phone call that asks for personal or financial information. If you get an email that claims to be from the IRS, do not reply or click on any links. Instead, forward it to [www.phishing@irs.gov](mailto:www.phishing@irs.gov) and report imposters to the US Treasury Inspector General for Tax Administration at [www.tigta.gov](http://www.tigta.gov).*



If you think someone used your SSN for a tax refund or a job — or the IRS sends you a notice or letter indicating a problem — contact the IRS immediately. Specialists will work with you to get your tax return filed, get you any refund you are due, and protect your IRS account from identity thieves in the future. Contact the IRS Identity Protection Specialized Unit by calling 1-800-908-4490. You can also contact the Attorney General's Consumer Protection Division for additional assistance at 1-800-300-1986 or 605-773-4400.

### **Detecting Identity Theft**

- You are denied credit.
- You get a notice from the IRS about a tax debt that you do not believe is yours.
- You find charges on your credit card or withdrawals from your account that you don't remember making.

- Personal information, credit cards, ATM cards, checks, or IDs have been stolen from you.
- You suspect someone has fraudulently changed your mailing address.
- Your credit card bills stop coming.
- You get bills that aren't yours.
- You find something wrong with your credit report, such as loans you didn't take out or accounts you don't remember opening.
- A debt collector calls about debts you don't believe you owe.

Children and seniors are both vulnerable to ID theft. Child ID theft may go undetected for many years. Victims may not know until they're adults, applying for their own loans. Seniors are vulnerable because they may be more trusting, and reports show older baby boomers are wealthier than the generation before them making them a prime target.

### **What To Do If Your Identity Is Stolen**

- Notify affected creditors or banks. Close accounts that have been compromised.
- Put a *Fraud Alert* on your credit report with one of the three national credit reporting agencies. This will help protect you until you know the extent of the theft.
- File a police report with your local police department or sheriff's office.
- File a complaint with Consumer Protection
- Consider filing an ID Theft Report with the Federal Trade Commission Identity Theft Hot Line at 877-ID-THEFT (877-438-4338) or by going to [www.identitytheft.gov/Assistant](http://www.identitytheft.gov/Assistant) to file your report.
- Decide if it may be beneficial for you to place a *Security Freeze* on your credit report.
- Take notes and keep a record of conversations and make copies of correspondences. Retain this information indefinitely.
- Check for unauthorized utilities and phone accounts by going to [www.naruc.org/about-naruc/regulatory-commissions](http://www.naruc.org/about-naruc/regulatory-commissions) and [www.nctue.com](http://www.nctue.com)
- You may want to consider contacting the Department of Motor Vehicles to ensure that no unauthorized license(s) have been issued in your name.
- After all related matters are corrected, request new credit reports to confirm that fact.
- Consider creating a "My Account" with the Social Security Administration before you place Fraud Alert or Security Freeze by visiting <https://www.ssa.gov/myaccount/create.html>

## **CREDIT REPORTING**

Although each credit reporting agency formats and reports this information differently, all credit reports contain basically the same categories of information. The federal Fair Credit Reporting Act (FCRA) promotes the accuracy and privacy of information in the files of the nation's credit reporting agencies (CRA).

- **Identifying Information.** Your name, address, Social Security number, date of birth and employment information are used to identify you. These factors are not

used in credit scoring. Updates to this information come from information you supply to lenders.

- **Trade Lines.** These are your credit accounts. Lenders report on each account you have established with them. They report the type of account (bankcard, auto loan, mortgage, etc), the date you opened the account, your credit limit or loan amount, the account balance and your payment history.
- **Credit Inquiries.** When you apply for a loan, you authorize your lender to ask for a copy of your credit report. This is how inquiries appear on your credit report. The inquiries section contains a list of everyone who accessed your credit report within the last two years.
- **Public Record and Collections.** Credit reporting agencies also collect public record information from state and county courts, and information on overdue debt from collection agencies. Public record information includes bankruptcies and civil lawsuits.

### **FREE CREDIT REPORTS**

The Fair Credit Reporting Act (FCRA) requires each of the nationwide credit reporting agencies (CRA) — Equifax, Experian, and TransUnion — to provide you with a free copy of your credit report, at your request, once every twelve (12) months. The FCRA promotes the accuracy and privacy of information in the files of the nation's credit reporting agencies. The Federal Trade Commission (FTC), the nation's consumer protection agency, enforces the FCRA with respect to credit reporting agencies. It is crucial that you check for inaccuracies and fraudulent use of your accounts. By requesting the reports separately (for example, one every four months) you can monitor your credit report throughout the year. Once you've received your annual free credit report, you can still request additional reports. By law, a credit reporting agency can charge no more than \$12.50 for a credit report.



To obtain the free reports, consumers can:

- Order online at [www.annualcreditreport.com](http://www.annualcreditreport.com)
- Call 1-877-322-8228 (mailed within fifteen (15) days of receipt but allow 2-3 weeks for delivery)
- Complete the Annual Credit Report Request form, available at [www.consumer.ftc.gov](http://www.consumer.ftc.gov) and mail to:

**Annual Credit Report Request Service**  
**PO Box 105281**  
**Atlanta GA 30348-5281**

You will need to provide your name, address, Social Security Number, and date of birth when requesting your credit report. Also, if you have moved in the last two years, you may have to provide your previous address. To maintain the security of your file,



each nationwide consumer reporting company may ask you for some information that only you would know, like the amount of your monthly mortgage payment.

**PLEASE NOTE:** Your credit score is NOT included with the free credit report offered by Annual Credit Report.

### **IF YOU HAVE NEGATIVE INFORMATION**

When negative information in your report is accurate, only the passage of time can assure its removal. A consumer reporting company can report most accurate negative information for seven (7) years and bankruptcy information for ten (10) years. Information about an unpaid judgment against you can be reported for seven (7) years or until the statute of limitations runs out, whichever is longer. There are some exceptions to these rules.

### **CORRECTING CREDIT REPORT ERRORS**

Under the Fair Credit Reporting Act (FCRA), both the Credit Reporting Agency and the information provider (that is, the person, company, or organization that provides information about you to a credit reporting agency) are responsible for correcting inaccurate or incomplete information in your report.

STEP 1 Begin by telling the CRA what information you believe is inaccurate. Credit reporting agencies must investigate the item(s) in question within thirty (30) days unless they consider your dispute frivolous. Include copies (NOT originals) of documents that support your position. In addition to providing your complete name and address, your communication should:

- Clearly identify each disputed item in your report.
- State the facts and explain why you dispute the information.
- Request deletion or correction.

The CRA must investigate the disputed items, unless they consider your claim frivolous. They must forward all the information you provided to the organization that originally reported the disputed information. The information provider must investigate and report the results back to the CRA. If the information provider finds the disputed information is inaccurate, it must notify all three nationwide CRA's so they can correct the information in your file.

You are entitled to receive a copy of the results of the investigation in writing and a free copy of your credit report if the investigation resulted in a change. The CRA must also send you a notice that includes the name, address, and phone number of the information provider.

If the investigation does not resolve your dispute, you can ask that a statement of the dispute be included in your file and in future reports. You can also ask the CRA to provide your statement to anyone who received a copy of your report in the recent past if you are willing to pay a fee for this service.

**STEP 2** Tell the information provider (that is, the person, company, or organization that provides information about you to a credit reporting agency), in writing, that you dispute an item in your credit report. A sample letter provided by the FTC can be found at <http://www.consumer.ftc.gov/articles/0485-sample-letter-disputing-errors-your-credit-report-information-providers>. Include copies (NOT originals) of documents that support your position. If the provider listed an address on your credit report, send your letter to that address. If no address is listed, contact the provider and ask for the correct address to send your letter. If the information provider does not give you an address, you can send your letter to any business address for that provider.

If the provider continues to report the item you disputed to a CRA, it must let the CRA know about your dispute. And if you are correct — that is, if the information you dispute is found to be inaccurate or incomplete — the information provider must tell the CRA to update or delete the item.

### ***Should I sign up for credit Monitoring?***

*The Attorney General's Office does not endorse or oppose credit monitoring services and advises consumers to consider whether these services are beneficial. Note that credit reporting agencies offer packages that provide credit monitoring—for an additional cost—with the ability to freeze your reports. However, remember you are only responsible for the first \$50.00 worth of fraudulent charges placed on your credit card account(s) if you are a proven identity theft victim.*



### **ADDING ACCOUNTS TO YOUR REPORT**

Your credit file may not reflect all your credit accounts. Although most national department store and all-purpose bank credit card accounts will be included in your file, not all creditors supply information to credit reporting agencies: some local retailers, credit unions, and travel, entertainment, and gasoline card companies are among the creditors that don't.

If you've been told that you were denied credit because of an "insufficient credit file" or "no credit file" and you have accounts with creditors that don't appear in your credit file, ask the credit reporting agencies to add this information to future reports. Although they are not required to do so, many credit reporting agencies will add verifiable accounts for a fee. However, understand that if these creditors do not report to the agency on a regular basis, the added items will not be updated in your file.



# Annual Credit Report Request Form

You have the right to get a free copy of your credit file disclosure, commonly called a credit report, once every 12 months, from each of the nationwide consumer credit reporting companies, Equifax, Experian and TransUnion.

For instant access to your free credit report, visit [www.annualcreditreport.com](http://www.annualcreditreport.com).

For more information on obtaining your free credit report, visit [www.annualcreditreport.com](http://www.annualcreditreport.com) or call 877-322-8228.

Use this form if you prefer to write to request your credit report from any, or all, of the nationwide consumer credit reporting companies. The following information is required to process your request. **Omission of any information may delay your request.**

Once complete, fold (do not staple or tape), place into a #10 envelope, affix required postage and mail to:  
Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281.

Please use a Black or Blue Pen and write your responses in PRINTED CAPITAL LETTERS without touching the sides of the boxes like this example:  
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z 0 1 2 3 4 5 6 7 8 9

Social Security Number:

Grid for Social Security Number: [ ][ ][ ] - [ ][ ] - [ ][ ][ ][ ][ ][ ]

Date of Birth:

Grid for Date of Birth: [ ][ ] / [ ][ ] / [ ][ ][ ][ ][ ]  
Month Day Year

Fold Here

Fold Here

Grid for First Name and M.I.

First Name

M.I.

Grid for Last Name and suffix (JR, SR, III, etc.)

Last Name

JR, SR, III, etc.

Current Mailing Address:

Grid for House Number and Street Name

House Number

Street Name

Grid for Apartment Number / Private Mailbox

Apartment Number / Private Mailbox

Grid for Puerto Rico Urbanization Name

For Puerto Rico Only: Print Urbanization Name

Grid for City, State, and Zip Code

City

State

ZipCode

Previous Mailing Address (complete only if at current mailing address for less than two years):

Grid for Previous Mailing Address: House Number and Street Name

House Number

Street Name

Fold Here

Fold Here

Grid for Apartment Number / Private Mailbox

Apartment Number / Private Mailbox

Grid for Puerto Rico Urbanization Name

For Puerto Rico Only: Print Urbanization Name

Grid for City, State, and Zip Code

City

State

ZipCode

Shade Circle Like This → ●  
Not Like This → ⊗ ⊙

I want a credit report from (shade each that you would like to receive):

- Equifax
- Experian
- TransUnion

Shade here if, for security reasons, you want your credit report to include no more than the last four digits of your Social Security Number.



If additional information is needed to process your request, the consumer credit reporting company will contact you by mail.

Your request will be processed within 15 days of receipt and then mailed to you.

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## SAMPLE LETTER – CREDIT REPORT DISPUTE

Date  
Your Name  
Your Address  
City, State, Zip Code

Complaint Department  
Name of Company Address  
City, State, Zip Code

Dear Sir or Madam:

I am writing to dispute the following information in my file. I have circled the items I dispute on the attached copy of the report I received.

This item *(identify item(s) disputed by name of source, such as creditors or tax court, and identify type of item, such as credit account, judgment, etc.)* is *(inaccurate/incomplete)* because *(describe what is inaccurate or incomplete and why)*. I am requesting that the item be removed *(or request another specific change)* to correct the information.

Enclosed are copies of *(use this sentence if applicable and describe any enclosed documentation, such as payment records and court documents)* supporting my position. Please reinvestigate this *(these)* matter(s) and *(delete or correct)* the disputed item(s) as soon as possible.

Sincerely,

**Your Name**

Enclosures: *(List what you are enclosing)*



## FRAUD ALERTS & SECURITY FREEZES

Fraud Alerts and Security Freezes can provide a great defense against ID Theft. A freeze generally stops all access to your credit report, while a fraud alert permits creditors to get your report as long as they take steps to verify your identity. The following information explains the differences between the two. For both alerts and freezes you'll need to supply your name, address, date of birth, Social Security number and other personal information.



### **ALERTS**

A **fraud alert** is a statement that is placed on a credit reporting agency report. The report is intended to help consumers who have been a victim, or *may* have been a victim, of identity theft. You can place a fraud alert by asking one of the three nationwide credit reporting agencies. It must put the alert on your credit report and tell the other two CRA to do so.

### **Why place a fraud alert**

A fraud alert is a warning placed on your credit record that tells potential lenders to verify your identity before extending new credit. This may result in the creditor or business calling you directly or sending a letter or inquiry prior to granting the credit application. For this reason, it is important to make sure your contact information is current on your credit report. Fraud alerts expire after one (1) year unless you extend them.

- Equifax fraud department:  
1-800-525-6285 • Web: [www.equifax.com](http://www.equifax.com)
- Experian fraud department:  
1-888-EXPERIAN (888-397-3742) • Web: [www.experian.com/fraud](http://www.experian.com/fraud)
- TransUnion fraud department  
1-800-680-7289 • Web: [www.transunion.com](http://www.transunion.com)

Fraud alerts may be effective at stopping someone from opening new credit accounts in your name, but they may not prevent the misuse of your existing accounts. You still need to monitor all bank, credit card, and insurance statements for fraudulent transactions.

### **What's an Extended fraud alert?**

An extended fraud alert means that a business must verify your identity before it issues new credit. An extended fraud alert, lasting seven (7) years, is available only to identity theft victims. To get an extended fraud alert, you'll first need an Identity Theft Report, which you can create at [IdentityTheft.gov](https://www.identitytheft.gov).

- You can get two free credit reports within twelve (12) months from each of the three nationwide credit reporting agencies.
- They must take your name off marketing lists for pre-screened credit offers for five years, unless you ask them to put your name back on the list.

### **What's an active duty military alert?**

For those in the military who want to protect their credit while deployed, this fraud alert lasts for one year and can be renewed for the length of your deployment. The credit reporting agencies will also take you off their marketing lists for pre-screened credit card offers for two years, unless you ask them not to.

### **FREEZES**

A **security freeze** is a free tool that lets you restricts access to your credit report, making it harder for identity thieves to open new accounts in your name. This is because most creditors need to see your credit report before they approve a new account. Just like a fraud alert, a credit freeze may not stop misuse of your existing accounts or some other types of identity theft.

### **Why place a security freeze**

A security freeze provides a much stronger protection than a fraud alert. After receiving your freeze request, each credit reporting agencies will provide you with a unique PIN (personal identification number) or password. Keep the PIN or password in a safe place. You will need it if you choose to lift the freeze. A credit freeze locks down your credit reports making them inaccessible to lenders and others who may have an interest in viewing your credit history including insurers and even potential employers.

### **How do I place a security freeze?**

To place a freeze, you must request a security freeze by contacting each of the three credit reporting agencies. There is no cost to placing, temporarily lifting, or removing a security freeze.

Contact the three (3) Credit Reporting Agencies with the following addresses, phone numbers, or website:

Equifax Security Freeze  
PO Box 105069  
Atlanta, GA 30348-5069  
1-888-548-7878

[www.equifax.com](http://www.equifax.com)

Experian Security Freeze  
PO Box 4500  
Allen, TX 75013  
888-397-3742

[www.experian.com](http://www.experian.com)

TransUnion Security Freeze  
PO Box 160  
Woodlyn, PA 19094  
888-916-8800

[www.transunion.com/credit-freeze/place-credit-freeze](http://www.transunion.com/credit-freeze/place-credit-freeze)

The below entities are not nationwide credit reporting agencies, but they do keep credit files on consumers and must be notified separately.

Innovis Consumer Assistance  
PO Box 26  
Pittsburgh, PA 15230-0026  
1-800-540-2505

[www.innovis.com/personal/securityFreeze](http://www.innovis.com/personal/securityFreeze)

National Consumer Telecom & Utility Exchange (NCTUE)  
Security Freeze  
PO Box 105561  
Atlanta, GA 30348  
1-866-343-2821

[www.nctue.com](http://www.nctue.com)

### **How long does it take for a security freeze to take effect?**

If you request a freeze online or by phone, the agency must place the freeze within one (1) business day. If you make your request by mail, the agency must place or lift the freeze within three (3) business days after it gets your request.

### **How long will the credit report remain frozen?**

Your report remains frozen until you remove it.

### **Can I change my mind, once I place the security freeze?**

Yes. You can have the freeze removed for free at any time.

### **Can I open new credit accounts if my files are frozen?**

Yes. You may have a security freeze temporarily lifted (thawed) for a specific date range (e.g. March 15-March 21). In most instances a week is usually enough time for a business, credit card issuer, or potential employer to check your report. If you can find out which credit reporting agency they use, you only need to lift your freeze with that particular credit reporting agency. If not, you will need to lift all three of your security freezes.



### **How long does it take for a security freeze to be lifted?**

Credit reporting agencies must comply with an online or telephone request to lift or remove a security freeze within one (1) hour. Credit reporting agencies have up to three (3) business days to comply with a written request to lift or remove a security freeze after they receive the request by mail.

### **What will a creditor who requests my file see if it is frozen?**

A creditor will see a message or a code indicating the file is frozen.

### **Can a creditor get my credit report if my file is frozen?**

Typically, NO. A creditor who requests your file from one of the three credit reporting agencies will only get a message or a code indicating that the file is frozen.

Certain entities still will have access to it.

- Existing creditors or to debt collectors acting on their behalf.
- Government agencies may have access in response to a court or administrative order, a subpoena, or a search warrant.

### **Can I order my credit report if my file is frozen? Yes.**

### **Do I have to freeze my file with all three credit reporting agencies?**

Yes. Different credit issuers may use different agencies. If you want to stop your credit file from being viewed, you must freeze it with Equifax, Experian, and TransUnion.

### **Will a freeze lower my credit score? No.**

### **Can an employer do a background check on my credit file?**

No. You would have to lift the freeze to allow a background check, just as you would to apply for credit.

### **To protect my credit, does my spouse's credit file have to be frozen too?**

Yes. Spouses must freeze their separate credit files.

### **Does freezing my file mean that I won't receive pre-approved credit offers?**

No. You can stop the pre-approved credit offers by calling 888-5OPTOUT (888- 567-8688). Or you can do this online at [www.optoutprescreen.com](http://www.optoutprescreen.com). The Opt-Out will stop most of the offers (the ones that go through the credit reporting agencies). It's good for five (5) years or you can make it permanent.

**What if I lose my PIN or forget my password?** If you have lost your PIN or password, you might be able to get into your account by answering some security questions. Or, you might have to request a replacement PIN or otherwise verify your identity before you can make a change to your file. Follow the instructions sent to you with your freeze confirmation letter or contact the credit reporting agencies by phone or online for instructions.



**Does a credit freeze guarantee that I will not be a victim of identity theft?** No. While a credit freeze can help keep an identity thief from opening most new accounts in your name, it will not prevent all types of identity theft.

It will not protect you, for example, from an identity thief who uses your existing credit cards or other accounts.

There are also new accounts, such as telephone, wireless, and bank accounts, which may not require a credit check. And, if there is identity theft going on when you place the credit freeze, the freeze won't stop it.

### **Will credit monitoring companies prevent identity theft?**

Many companies refer to their services as *identity theft protection services*. In fact, no service can protect you from having your personal information stolen. What these companies offer are monitoring and recovery services. *Monitoring services* watch for signs that an identity thief may be using your personal information. *Recovery services* help you deal with the effects of identity theft after it happens.

### **How can I make the most of credit monitoring?**

- Be cautious of free trials: Some credit monitoring companies offer free trials that automatically enroll you in a monthly subscription once the trial is up.
- Tailor your notification preferences to your lifestyle: For example, if you're always on the go and check text messages more often than email, then set your notification preference to text alerts.
- Act quickly on suspicious changes: Do not pay for a monitoring service unless you also commit to acting timely on notices of suspicious activity.

## **FREEZING YOUR CHILD'S CREDIT REPORT**

To freeze or not to freeze – opinions vary. Consumers under the age of 18 typically do not have credit reports. Unfortunately, that means they present a blank slate for fraudsters who can apply for credit and take out loans in their name. The identity theft may not be discovered for years, until the child is a young adult. If you choose not to freeze your child's report, it's a good idea to check whether your child has a credit report close to the child's 16th birthday. If there is one — and it has errors due to fraud or misuse, you will have time to correct it before the child applies for a job, a loan for tuition, a car, or needs to rent an apartment.

As a parent or legal guardian, a security freeze is one tool you can use to restrict certain access to your minor dependent's credit report. Should you request a security freeze be placed on your minor dependent's credit report, a credit report is created for the minor and then frozen.

You'll need to complete the required forms for each credit reporting agency and provide proof of your identity; proof of their identity, and proof that you are their parent or legal guardian.

**What happens once a security freeze is placed?** Once a minor's credit report is frozen, it will remain frozen until you, as the child's parent or guardian, take action or the child takes action to lift or remove it after his or her 16th birthday.

**What happens to the security freeze once my child turns 16?** The security freeze will remain in place until the child decides otherwise.

**What if my child is over the age of 16 but under 18?** Minors who are 16 or 17 may request their own security freeze and can do so by phone or by mail.

### Freezing Your Credit Report Through the Mail

Send a separate letter requesting a security freeze to each credit reporting agency. Make sure to write clearly and sign the letter. Send the letter certified mail-keep a copy for your records. Enclose a copy of the required documents-never the originals.

**Date:**

**[AGENCY NAME & ADDRESS]**

**I would like to place a security freeze on my credit file.**

**My name is:** \_\_\_\_\_  
(Be sure to include full name, middle initial, former names, & Jr./Sr./III)

**My current address is:** \_\_\_\_\_

**In the past two years I have also lived at: (list all addresses)**

**My Social Security Number is:** \_\_\_\_\_

**My date of birth is:** \_\_\_\_\_

**As proof of identification and residence, I am enclosing a copy of the following two items:** \_\_\_\_\_

*(List what you are enclosing. Enclose copy of a government ID card such as driver's license or military ID **AND** a copy of a utility bill, phone bill or insurance or bank statement. NOTE – do not send originals)*

Sincerely,

[Your Signature and Address]

## DATA BREACH

Every day there seems to be another announcement of a data breach. What should South Dakota consumers and organizations that retain personal identifying information (PII) on a computer know about our data breach laws.


The organization must first determine if there was a breach in their system? Generally, the triggering event is either a discovery of a breach, or notification of a breach – presumably by an outside party.

*A breach of system is an – unauthorized acquisition of unencrypted computerized data.*



The following step can be used to determine what should happen next.

1. **What was taken** – Was it a person's first and last name in conjunction with any of one (1) of the following:
  - a. Social Security;
  - b. Driver license number or other unique identification number created or collected by a government body;
  - c. Account, credit card, or debit card number, in combination with any required security code, access code, password, routing number, PIN, or any additional information that would permit access to a person's financial account;
  - d. Health information as defined in 45 CFR 160.103; or
  - e. An identification number assigned to a person by the person's employer in combination with any required security code, access code, password, or biometric data generated from measurements or analysis of human body characteristics for authentication purposes.
2. YES – qualifying information was taken – **What's your next step?**
  - a. Within sixty (60) days from the notice of the breach, the Information Holder must disclose the breach to any South Dakota resident whose personal or protected information was acquired.
  - b. If the breach exceeds 250 South Dakota residents, the Attorney General's Office must also be informed within sixty (60) days from the notice of the breach.
  - c. If disclosure to either Consumers or the Attorney General's Office is required, notice is also required to be given to the consumer reporting agencies.
  - d. EXEMPTION – SDCL 22-40-21 allows for a delay in notification if doing so would impede a Law Enforcement investigation

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- i. If the notification is delayed, the notification shall be made no later than thirty (30) days after the law enforcement agency determines that notification will not compromise the criminal investigation.
  - e. EXEMPTION - SDCL 22-40-23 provides an exception to 22-40-22 for Holder's who have an information security policy in place which requires a different type of notification if the policy is consistent with the law as it relates to timeliness of the notification.
3. YES & NO – qualifying information was taken to constitute a breach BUT through an appropriate investigation it was determined that the breach will likely not result in harm to the affected person(s).

#### **What's your next step?**

- a. Choose whether to report the incident to the Attorney General's Office.
- b. Determination must be documented and maintained by the Information Holder for no less than three (3) years.

#### **Penalties of non-compliance?**

SDCL 22-40-25 provides for enforcement of the law as a violation of the Deceptive Practices Act (SDCL 37-24), and a Civil Penalty of up to \$10,000/day/violation, attorney's fees, and costs.

SDCL 22-40-26 provides an exception for those Holders which must comply with HIPAA or the Gramm Leach Bliley Act

Each is a violation of SDCL 37-24-6.

**If Criminal:** under SDCL 37-24-6 a violation can be a Class 1 Misdemeanor, or if the value is between \$1,000 and \$99,999 a Class 6 Felony, if the value is \$100,000 or more, it is a Class 5 Felony. M1=1 county jail, \$2,000 fine max; F6=2 years State Pen, \$4,000 fine max; F5=5 years State Pen, \$10,000 fine max. For Criminal Prosecution there is a much higher burden of proof to be met than for Civil.

**If Civil:** Under SDCL 37-24-23 and -27, the Attorney General can sue for an Injunction and recover a civil penalty of not more than \$2,000 per violation if the party committing the violation "knew or should have known" that the conduct was a violation. Attorney's fees and costs can also be recovered.

**ADDITIONALLY:** under SDCL 22-40-25, the Attorney General can also recover "not more than" \$10,000 per day, per violation, attorney's fees, and costs on top of any remedy sought under the Deceptive Practices Act.



## Other Laws in this Area

### Health Insurance Portability and Accountability Act (HIPAA)

Applies to healthcare industry and requires certain procedures and notifications regarding PII.

### Fair Credit Reporting Act (FCRA)

Governs businesses which collect and utilize credit information and related data from consumers. Requires certain protections and restrictions on the use of that information.

## Now what?

There are 50 laws that companies deal with depending on where the business has clients. There's unique language and provisions from state to state. If you have clients in other states, then you must know what those states require.

Take Stock: Work with Legal Counsel and IT Consultants to prepare and safeguard data. Adopt a policy to deal with data and make sure IT is up to the task of protecting data. *Also consider how you safeguard paper data as some states regulate paper data as well as electronic data.*

Consider scaling down what data you collect: Legal and Tech advice can be very helpful here as well. Develop retention policies for data that you do need to keep.

Plan: It's far cheaper in the long run to invest time and expense in Legal and Tech advice than it is to lose customer goodwill, defend civil or criminal actions, reconstruct computer systems, hire forensic accountants/IT folks, and notify consumers of a breach. There are insurance policies for data breaches. Read all the terms and condition so you understand your organizations responsibilities and the insurance companies' responsibilities.

Consumer Policies: Consider developing a policy on how you protect your consumers information. Consumers are asking to review this more and more before they will give their PII to an organization.

## SHOPPING FOR A MORTGAGE

Shopping around for a home loan or mortgage will help you get the best financing deal. A mortgage — whether it's a home purchase, a refinancing, or a home equity loan — is a product, just like a car, so the price and terms may be negotiable. You'll want to compare all the costs involved in obtaining a mortgage. Shopping, comparing, and negotiating may save you thousands of dollars.

Home loans are available from several types of lenders — thrift institutions, commercial banks, mortgage companies, and credit unions. Different lenders may quote you different prices, so you should contact several lenders to make sure you're getting the best price. The following information is important to get from each lender and broker:

### Rates

- Ask each lender and broker for a list of its current mortgage interest rates and whether the rates being quoted are the lowest for that day or week.
- Ask whether the rate is fixed or adjustable. Keep in mind that when interest rates for adjustable-rate mortgages go up, generally so do the monthly payments.
- If the rate quoted is for an adjustable-rate mortgage, ask how your rate and loan payment will vary, including whether your loan payment will be reduced when rates go down.
- Ask about the loan's annual percentage rate (APR). The APR takes into account not only the interest rate but also points, broker fees, and certain other credit charges that you may be required to pay, expressed as a yearly rate.

### Points

Points are fees paid to the lender or broker for the loan and are often linked to the interest rate; usually the more points you pay, the lower the rate.

- Ask for points to be quoted to you as a dollar amount — rather than just as the number of points — so that you will know how much you will actually have to pay.

### Fees

A home loan often involves many fees, such as loan origination or underwriting fees, broker fees, and settlement (or closing costs). Every lender or broker should be able to give you an estimate of its fees. Many of these fees are negotiable. Some fees are paid when you apply for a loan (such as application and appraisal fees), and others are paid at closing. In some cases, you can borrow the money needed to pay these fees but doing so will increase your loan amount and total costs. "No cost" loans are sometimes available, but they usually involve higher rates.

- Ask what each fee includes. Several items may be lumped into one fee.
- Ask for an explanation of any fee you do not understand. Some common fees associated with a home loan closing are listed on the Mortgage Shopping Worksheet.

## **DOWN PAYMENTS AND PRIVATE MORTGAGE INSURANCE**

Some lenders require 20 percent of the home's purchase price as a down payment. However, many lenders now offer loans that require less than 20 percent down — sometimes as little as 5 percent on conventional loans. If a 20 percent down payment is not made, lenders usually require the homebuyer to purchase private mortgage insurance (PMI) to protect the lender in case the homebuyer fails to pay. When government-assisted programs like FHA (Federal Housing Administration), VA (Veterans Administration), or Rural Development Services are available, the down payment requirements may be substantially smaller.

- Ask about the lender's requirements for a down payment, including what you need to do to verify that funds for your down payment are available.
- Ask your lender about special programs it may offer.

If PMI is required for your loan

- Ask what the total cost of the insurance will be.
- Ask how much your monthly payment will be when the PMI premium is included.

### **Fair Lending Is Required By Law**

The *Equal Credit Opportunity Act* prohibits lenders from discriminating against credit applicants in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, whether all or part of the applicant's income comes from a public assistance program, or whether the applicant has in good faith exercised a right under the Consumer Credit Protection Act.

The *Fair Housing Act* prohibits discrimination in residential real estate transactions on the basis of race, color, religion, sex, handicap, familial status, or national origin.


Under these laws, a consumer may not be *refused* a loan based on these characteristics nor be charged more for a loan or *offered less-favorable terms* based on such characteristics.

### **Remember: Shop, Compare, Negotiate**

## **REVERSE MORTGAGE**

A reverse mortgage is a special type of home equity loan that allows a homeowner to convert home equity into cash, either through a lump sum or through monthly payments. The amount you can borrow depends on several factors, including how much your home is worth, current interest rates, the age of the homeowner(s), and the terms of the loan.

Depending on the product, a reverse mortgage may provide you with cash to supplement your retirement income. It can also help you with expenses such as home improvements and health care costs. But it can also be complicated, confusing, and costly.



Under a reverse mortgage, you still own the home and the bank pays you instead of you making monthly payments to the bank. The loan does not generally have to be repaid until the last surviving owner moves out, sells, or dies. At that time, the lender will sell the home to pay off the reverse mortgage.

The following are types of reverse mortgages:

- **Home Equity Conversion Mortgage (HECM).** This is a reverse mortgage that's insured by the Federal Housing Administration. The homeowner must be at least 62 and live in the home. The homeowner must own the home outright or have a low mortgage balance that can be paid off at closing time with proceeds from the reverse loan.
- **Proprietary Reverse Mortgage.** This is a private loan backed by commercial institutions, such as a bank, a mortgage company or other private lender. It's generally more expensive than other types of reverse mortgages or traditional home loans.
- **Single Purpose Reverse Mortgage.** This type of loan may be offered by a state, local government, or non-profit agency. The loan may be restricted to specific types of home repairs, home improvements, or paying property taxes. This is generally the least expensive of the three types of reverse mortgages.

If someone is inheriting your home, they must repay the loan in order to take possession. If the amount owed is equal to the home's value, your heirs would not inherit the home as it would revert to the lender. Also, with lump sum payments, the interest charges are added each month. Over time the total debt owed can far surpass the original loan. However, most mortgages have a "nonrecourse" clause, which prevents you or your estate from owing more than the value of your home when the loan becomes due and the home is sold (though if your heirs would like to retain ownership, they generally must repay the loan in full, even if the loan value is greater than the home's value).

### **UNDERSTAND YOUR OPTIONS AND RIGHTS**

Know the benefits, your costs, and the loan terms before entering into a reverse mortgage agreement. A reverse mortgage may not be your best option if you need a small amount of money for a limited time. This is why it's so important to get good advice, look at your options, and comparison shop. Always consider consulting with a lawyer or a trusted financial advisor before entering into this complicated type of loan.

#### **Here are some tips to remember when considering a reverse mortgage:**

- Some loan agents may try to aggressively sell you a reverse mortgage product. Beware of high-pressure sales tactics, so-called "educational seminars," sales pitches that instill fear about nursing home finances, and sales pitches that are tied to other investments. Be cautious of "mortgage consultants" who push for costly renovations or specific contractors.
- You may see advertisements on TV with celebrities endorsing reverse mortgages. All these guarantees make the loans sound as safe as the celebrities



promoting them promise. But there's something they overlooked. You can keep the house only as long as you can pay your property taxes and homeowners insurance. If you run out of money and let these bills slide, you're in default, and the bank can foreclose on your house.

- Before applying for an HECM, federal law requires that the borrower must meet with an independent government-approved housing counseling agency (information at [www.HUD.gov](http://www.HUD.gov)). A private lender may also require counseling.
- You have the right to cancel within three (3) business days after closing the loan. To cancel you must do so in writing. Send your letter by certified mail, and ask for a return receipt. Keep copies of all documents and letters. Contact the Attorney General's Consumer Protection Division at 1-800-300-1986 immediately if you think you've been scammed.

## PROPERTY TAX FREEZE

### **SALES AND PROPERTY TAX REFUND FOR SENIOR & DISABLED CITIZENS**

This program offers eligible senior citizens and disabled individuals a once-a-year refund of sales or property taxes. The program is funded through an annual appropriation from the South Dakota Legislature. Property is the house, garage and the lot upon which it sits or one acre, whichever is less.

#### **To be eligible:**

- You must be at least 66 years old on or before January 1 of the current year or disabled during any part of the year. Disabled means you're qualified to receive Social Security Disability benefits, Supplemental Security Disability benefits, or you're a veteran with a rated disability of 60% or higher.
- You must have been a South Dakota resident for the entire previous year.
- You must meet the annual income requirements set by the Legislature.

**To apply:** Applications are accepted from May 1 to July 1. Please submit your application to the **Department of Revenue, Special Tax Division, 445 East Capitol Avenue, Pierre, SD 57501-3185.**

**Refunds:** Refunds are calculated based on your income; the Division begins issuing refund checks at the end of August.

### **Assessment Freeze for the Elderly & Disabled**

This program reduces the assessed value of the homeowner's property. Property is the house, garage and the lot upon which it sits, or one acre, whichever is less.

#### **To be eligible:**

- You must be at least 65 years of age or older OR disabled (as defined by the Social Security Act).
- You must own the home or retain a life estate in the property.
- Un-remarried widow/widowers of persons previously qualified may still qualify in some circumstances.

- Have resided for at least 200 days of the previous calendar year in the single-family dwelling.
- Income and property value limits apply.

**To apply:** Applications are available online or at any county Treasurers office beginning in January of each year. Applications must be submitted annually to your county Treasurer on or before April 1<sup>st</sup> you can visit <https://dor.sd.gov/>

### **Property Tax Reduction from Municipal Taxes for the Elderly & Disabled**

This program reduces your city property taxes the year following your application. Property is the house, garage and the lot upon which it sits, or one acre, whichever is less.

#### **To be eligible:**

- You must be 65 years old or older or disabled (as defined by the Social Security Act).
- You must own the property.
- Un-remarried widow/widowers of persons previously qualified may still qualify.
- Income limits apply.
- This program is only offered in those cities that have passed ordinances allowing the reduction. (As of July 1, 2003, only Rapid City has such an ordinance.)

**To apply:** Applications are available online or at any county courthouse beginning in January of each year. Applications must be submitted annually to your county treasurer on or before April 1st.

For more information about a property tax relief programs, contact your County Treasurer or the South Dakota Department of Revenue, Property Tax Division, at 1-800-829-9188 or visit <https://dor.sd.gov>

## **NEW CONSTRUCTION, HOME IMPROVEMENTS & HOME REPAIRS**

Adding a room, renovating a basement, or doing some much-needed repairs? Finding a good contractor is important — a home improvement project gone wrong can cost you. A good ad isn't proof a contractor does quality work. Find out for yourself. Check with friends, neighbors, or co-workers who've had improvement work done, and check out a contractor's reputation at online rating sites you trust, keep in mind each site uses different ways to rate businesses. You can also contact the Attorney General's Consumer Protection Division to see if any complaints have been filed against a company you are thinking of doing business with.

## **BEFORE YOU HIRE A CONTRACTOR GET ESTIMATES**

Once you've narrowed your options, get written estimates from several firms, keep in mind the lowest bidder may not be the best choice. Ask for an explanation to see if there's a reason for the difference in price.



### **Ask Questions**

#### **How many projects like mine have you completed in the last year?**

Ask for a list so you can see how familiar the contractor is with your type of project.

#### **Will my project require a permit?**

Most states and localities require permits for building projects, even for simple jobs like decks. A competent contractor will get all the necessary permits before starting work on your project. You may want to choose a contractor familiar with the permitting process in your county, city, or town.

#### **May I have a list of references?**

A contractor should be able to give you names, addresses, and phone numbers of at least three clients with projects like yours. Ask each client how long ago the project was and whether it was completed on time. Was the client satisfied? Were there any unexpected costs? Did workers show up on time and clean up after finishing the job? You also could tell the contractor that you'd like to visit jobs in progress.

#### **What types of insurance do you carry?**

- personal liability
- worker's compensation
- property damage coverage

Ask for copies of insurance certificates, and make sure they're current, or you could be held liable for any injuries and damages that occur during the project.

#### **Will you be using subcontractors on this project?**


If so, make sure the subcontractors have current insurance coverage and licenses, too, if required.

To find builders, remodelers, and related providers in your area that are members of the National Association of Home Builders, visit [www.nahb.org](http://www.nahb.org). To find detailed information about a builder, service provider, or remodeler in your area, contact your local home builders association.

## **UNDERSTAND YOUR PAYMENT OPTIONS**

### **Don't pay cash**

For smaller projects pay with a check or credit card.



**Try to make payments during the project contingent upon completion of defined amounts of work.** This way, if the work isn't going according to schedule, the payments to your contractor also are delayed.

### **Get a Written Contract**

It should be clear and concise and include the who, what, where, when, and cost of your project. Before you sign a contract, make sure it includes:

- Contractor's name, address, phone, and license number (if required).
- Estimated start and completion date.
- Payment schedule for the contractor, subcontractors, and suppliers.
- Contractor's obligation to get all necessary permits.
- How change orders are handled. A change order is a written authorization to the contractor to make a change or addition to the work described in the original contract and could affect the project's cost and schedule.
- Detailed list of all materials including each product's color, model, size, and brand. If some materials will be chosen later, the contract should say who's responsible for choosing each item and how much money is budgeted for it (this is also known as the "allowance").
- Ask the contractor you choose to provide a lien waiver before starting your job. This is a receipt that says the workers and suppliers of material will not ask you for money once you have paid the contractor. In any case, don't sign a consent of owner statement: it says you, the property owner, will cover the costs of materials and labor if the contractor doesn't pay.
- Information about warranties covering materials and workmanship, with names and addresses of who is honoring them — the contractor, distributor, or manufacturer. The length of the warranty period and any limitations also should be spelled out.
- What the contractor will and won't do. For example, is site clean-up and trash hauling included in the price? Ask for a "broom clause" that makes the contractor responsible for all clean-up work, including spills and stains.
- Any promises made during conversations or calls. If they don't remember, you may be out of luck — or charged extra.

Written statement of your right to cancel the contract within three (3) business days if you signed it in your home or at a location other than the seller's permanent place of business.

## **MOVING COMPANIES**

Moving, whether it is across town or across the country, can be a stressful time. Picking the right moving company and knowing that your property is protected is very important. Take the time to research the company that will potentially be handling irreplaceable family heirlooms. Moving companies are regulated by the U.S. Department of Transportation Federal Motor Carrier Safety Administration.

<https://www.fmcsa.dot.gov/protect-your-move>

## **Know your rights and responsibilities before selecting a mover.**

Before moving your household goods interstate, movers are required to give you the booklet entitled *Your Rights and Responsibilities When You Move*. This booklet will help you understand the documents that a mover will ask you to sign and explains your rights if your household goods are lost or damaged. Movers are also required to give you FMCSA's Ready to Move brochure, which helps you prepare to move with confidence.

## **Spot the red flags of moving fraud.**

- The mover doesn't offer or agree to an onsite inspection of your household goods and gives an estimate over the telephone or online — sight unseen. These estimates often sound too good to be true. They usually are.
- The moving company demands cash or a large deposit before the move.
- The mover asks you to sign blank or incomplete documents.
- The mover does not provide a written estimate (can be binding or non-binding).
- The mover doesn't provide you with a copy of the *Your Rights and Responsibilities When You Move* booklet and a copy of FMCSA's Ready to Move brochure, which movers are required by Federal regulations to supply to their customers in the planning stages of interstate moves.
- The company's website has no local address and no information about their registration or insurance.
- The mover claims all goods are covered by their insurance.
- When you call the mover, the telephone is answered with a generic "Movers" or "Moving company," rather than the company's name.
- Offices and warehouse are in poor condition or nonexistent.
- The mover says they will determine the charges after loading.
- On moving day, a rental truck arrives rather than a company-owned or marked fleet truck.
- The mover claims, "You've got more stuff than estimated!" Should this occur, be sure the mover provides a revised estimate that you both sign listing the additional items and/or services as well as a price that you both have agreed to and signed BEFORE they begin packing or loading. They should also provide you a copy of this new estimate.

## **Be sure your mover is registered with FMCSA.**

Check for insurance and any complaint records – by searching their database of registered movers or calling FMCSA at (202) 366-9805 for licensing and (202) 385-2423 for insurance.

All interstate household goods movers must be registered with the Federal government. Make sure the mover you select has been assigned a U.S. DOT number, is registered with FMCSA to engage in interstate transportation of household goods and has the proper level of insurance. Avoid movers that do not show U.S. DOT numbers and brokers that do not show Motor Carrier (MC) numbers in their advertisements.



### **Make sure you understand the type of liability you agree to.**

This is a common pitfall for consumers. Ask yourself if 60 cents per pound is enough coverage for all your household goods if the unexpected happens. Your mover must offer you the option of Full Value Protection, which will provide you with the replacement value of lost or damaged goods. You may also purchase insurance from a third-party insurance company. Before purchasing third-party insurance, check your homeowner's insurance policy to see if you're already covered.

### **Supervise the process.**

Supervise the loading and unloading of your household goods. If you are not available, appoint a representative to act on your behalf.

## **PREDATORY LENDING**

As a homeowner looking for a mortgage you need to protect yourself from predatory lending practices. Predatory lenders are any lender that takes advantage of homeowners for financial gain by imposing unfair and abusive loan terms on borrowers. Consumers can be lured into dealing with predatory lenders by aggressive mail, phone, TV, and even door-to-door sales tactics. Their advertisements promise lower monthly payments as a way out of debt, but don't tell potential borrowers that they will be paying more and longer. They may target minority communities by advertising in a specific language, or target neighborhoods with high numbers of elderly homeowners, or homeowners with little access to credit.

### **The following are three examples of predatory lending practices you will want to avoid:**

- **Refinancing Required in the Mortgage Contract.** There are lenders that require a mortgage be refinanced at periodic intervals. This could come in the form of a balloon payment or blatant automatic refinancing requirements. Mortgage lenders profit from required refinancing by charging fees. These fees are usually paid at closing; however, some lenders finance the closing costs by tacking them onto the loan's principal balance. When this happens, the interest paid on those finance charges can quickly become extremely expensive. These fees do nothing to help the homeowner; they only serve to line the pockets of the mortgage lender.
- **Requiring Additional Services to Qualify.** Some mortgage lenders require homeowners to purchase additional services to qualify for the loan. Requiring the purchase of credit life insurance, also called loan life insurance, is a predatory practice many mortgage lenders are guilty of. Do not let your mortgage lender sell you an insurance policy. Predatory lenders practice high pressure sales tactics on overpriced insurance policies.
- **Excessive Mortgage Lender Fees.** One example of excessive lender fees is the so called "no closing cost" mortgage. Lenders boast that the mortgage will save you \$2,000-\$3,000 in closing costs. What they bury in the fine print is the fact that they are charging as much as 2%-3% more for this loan than if you had paid the closing costs. This higher interest rate will cost you 2-3 times more over the life of the mortgage.

Unscrupulous mortgage lenders hide excessive fees in their appraisal fees, attorney fees, processing, origination, and administrative fees. Excessive prepayment penalties are another example of predatory lending practices.

To avoid becoming a victim of predatory lending practices, do your homework, and research mortgage lenders and their offer. Read the contracts carefully and understand everything before signing. Remember you can back out of a loan at any time before you sign it.

## STUDENT LOANS

If you apply for financial aid, you may be offered loans as part of your school's financial aid offer. A loan is money you borrow and must pay back with interest. Generally, there are two types of student loans:

- Federal student loans: These loans are funded by the federal government, usually have more benefits.
- Private student loans: These loans are nonfederal loans, made by a lender such as a bank, credit union, state agency, or a school.



### What are the differences between federal and private student loans?

Federal student loans include many benefits (such as fixed interest rates and income-driven repayment plans) not typically offered with private loans. In contrast, private loans are generally more expensive than federal student loans.

The chart below provides a summary of the differences.

Federal Student Loans	Private Student Loans
You will not have to start repaying your federal student loans until you graduate, leave school, or change your enrollment status to less than half-time.	Many private student loans require payments while you are still in school.
The interest rate is fixed and is often lower than private loans—and much lower than some credit card interest rates.	Private student loans can have variable interest rates, some greater than 18%. A variable rate may substantially increase the total amount you repay.
Undergraduate students with financial need will likely qualify for a subsidized loan where the government pays the interest while you are in school on at least a half-time basis.	Private student loans are not subsidized. No one pays the interest on your loan but you.

<b>Federal Student Loans</b>	<b>Private Student Loans</b>
You don't need to get a credit check for most federal student loans (except for PLUS loans). Federal student loans can help you establish a good credit record.	Private student loans may require an established credit record. The cost of a private student loan will depend on your credit score and other factors.
You won't need a cosigner to get a federal student loan in most cases.	You may need a cosigner.
Interest may be tax deductible.	Interest may not be tax deductible.
Loans can be consolidated into a Direct Consolidation Loan.	Private student loans cannot be consolidated into a Direct Consolidation Loan.
If you are having trouble repaying your loan, you may be able to temporarily postpone or lower your payments.	Private student loans may not offer forbearance or deferment options.
There are several repayment plans, including an option to tie your monthly payment to your income.	You should check with your lender to find out about your repayment options.
There is no prepayment penalty fee.	You need to make sure there are no prepayment penalty fees.
You may be eligible to have some portion of your loans forgiven if you work in public service.	It is unlikely that your lender will offer a loan forgiveness program.
Free help is available at 1-800-4-FED-AID.	The Consumer Financial Protection Bureau's private student loan ombudsman may be able to assist you if you have concerns about your private student loan.

### **WHAT TO DO IF YOUR IDENTITY HAS ALREADY BEEN USED TO TAKE OUT STUDENT LOANS?**

- Report the matter immediately by contacting both the U.S Department of Education Office of Inspector General Hotline (1-800-647-8733 - if the loan was a federal one) and fill out the FTC's IdentityTheft.gov report and file a complaint with the Attorney General's Consumer Protection Division at [www.consumer.sd.gov](http://www.consumer.sd.gov).
- You will also have to call the lender's fraud department to notify them that you have been a victim of identity theft. Ask them to close or freeze the accounts immediately.
- Get in touch with the school where the thief took out the loan and ask them to close the loan account and provide you with a letter stating that they have done so as soon as possible.
- Call one (1) credit reporting agencies and request a fraud alert until you can determine if you want to freeze your credit reports or go through the process to obtain an extended fraud alert.
- Once you have taken all the above steps, you may choose to report the matter to your local police department as well.

## Tips For Protecting Your Identity

- If you tend to use computers in public spaces such as a library, make sure to sign out of all your accounts - e-mail, social media etc. Another option is to use a VPN to protect your connection.
- On public computers, clear your browsing history after you are done to get rid of all cookies and auto-fill mechanisms that might have stored your sensitive information.
- When you apply for federal student loans, avoid “services” that promise to help you fill out the forms to “save you time.”
- Never give your FAFSA pin to anyone.
- Make sure if you need to get rid of any documents which have identifying information on them such as your social security number and your home address, you shred those documents prior to discarding them.
- Be careful when you sign onto free wifi networks to not navigate to websites where your information can easily be stolen by hackers on the network.
- Check your credit report regularly and immediately report any anomalies to credit reporting agencies.

## GRANTS

Grants are non-repayable funds or products disbursed by one party (grant makers), often a government department, corporation, foundation or trust, to a recipient, often (but not always) a nonprofit entity, educational institution, business or an individual.

Grants are an extremely helpful resource for individuals and organization. Scam artists have also used grants as a way to obtain your hard-earned funds. Be wary of callers or ads stating “free grants” – “congratulations you are eligible for a grant of X amount of dollars” this is followed by them needing your account information so they can deposit the funds directly into your account so its available to you quickly.

### Rules to Follow:

- Don't give out your bank account information to anyone you don't know.
- Don't pay any money for a “free” government grant.
- Look-alikes aren't the real thing – EX: “Federal Grants Administration” – they won't call.
- Phone numbers can deceive – makes it look like the call is coming from Washington, DC.



## DEBT COLLECTION

When a debt collector calls, it's important to know your rights and what you need to do. The FTC enforces the *Fair Debt Collection Practices Act* (FDCPA), which makes it illegal for debt collectors to use abusive, unfair, or deceptive practices when they collect debts.



## **What types of debts are covered?**

Your credit card debt, auto loans, medical bills, student loans, mortgage, and other household debts are covered. Business debts are not.

## **Can debt collectors contact me any time or any place?**

No. They can't contact you before 8 a.m. or after 9 p.m., unless you agree to it. They also can't contact you at work if they're told you're not allowed to get calls there.

## **How can a debt collector contact me?**

Debt collectors can call you, or send letters, emails, or text messages to collect a debt.

## **How can I stop a debt collector from contacting me?**

Send a letter by mail asking for contact to stop (make yourself a copy before you do). You might want to send it by certified mail and pay for a "return receipt" so you have a record the collector received it. Once the collector gets your letter, it can only contact you to confirm it will stop contacting you, or to tell you a specific action, like filing a lawsuit, will be taken. If you are represented by an attorney, and inform the collector, the collector must communicate with your attorney, not you, unless the attorney fails to respond within a reasonable period of time to the communication from the debt collector.

You might want to talk to the collector at least once, even if you don't think you owe the debt or can't repay it immediately. That way you can confirm whether it's really your debt. If it is your debt, you can find out from the collector more information about it. In talking with a debt collector, be careful about sharing your personal or financial information, especially if you're not already familiar with the collector.

## **Can a debt collector contact anyone else about my debt?**

A debt collector generally can't discuss your debt with anyone but you or your spouse. If an attorney is representing you, the debt collector must contact the attorney. A collector can contact other people to find out your address, your home phone number, and where you work, but usually can't contact them more than once.

## **What does the debt collector have to tell me about the debt?**

A collector has to send you a written "validation notice" within five (5) days of first contacting you. The notice has to say:

- How much money you owe.
- The name of the creditor you owe it to.
- What to do if you don't think it's your debt.

## **What if I don't think I owe the debt?**

You can send a debt collector a letter saying you don't owe any or all of the money or asking for verification of the debt. If you send the letter within thirty (30) days of getting the validation notice, the collector has to send you written verification of the



debt, like a copy of a bill for the amount you owe, before it can start trying to collect the debt again. You also can get a collector to stop contacting you, at any time, by sending a letter by mail asking for contact to stop.

### **What are debt collectors not allowed to do?**

They can't harass you. For example, they can't:

- Threaten you with violence or harm.
- Use obscene or profane language.
- Repeatedly use the phone to annoy you.

They can't lie. For example, they can't:

- Misrepresent the amount you owe.
- Lie about being attorneys or government representatives.
- Falsely claim you'll be arrested, or claim legal action will be taken against you if it's not true.

They can't engage in unfair practices. For example, they can't:

- Try to collect interest, fees, or other charges on top of the amount you owe, unless the original contract or your state law allows it.
- Deposit a post-dated check early.
- Take or threaten to take your property unless it can be done legally.

### **Can I control which debts my payments apply to?**

Yes. If a debt collector is trying to collect more than one debt from you, it must apply any payment you make to the debt you choose. A debt collector may not apply a payment to a debt you say you don't owe.

### **What should I do if a debt collector sues me?**

If a debt collector files a lawsuit against you to collect a debt, **respond**, either personally or through your attorney, by the date specified in the court papers. That will preserve your rights.

### **Can a debt collector take money from my paycheck?**

Yes, but the collector must first sue you to get a court order — called a garnishment — that says it can take money from your paycheck to pay your debts. A collector also can seek a court order to take money from your bank account. **Don't ignore a lawsuit**, or you could lose the opportunity to fight a court order.

### **What if my debt is old?**

Debt collectors have a certain number of years they can sue you and win to collect a debt. It's called the statute of limitations, and usually begins when you fail to make a payment on a debt. Once it's over, your unpaid debt is considered "time-barred," you have to raise the age of the debt as a defense to win. If you make a payment or provide written acknowledgment of your debt, the clock may start ticking again.

### **Can a debt collector contact me about a time-barred debt?**

Yes. Even if a debt collector can't successfully sue you over a time-barred debt, you may still owe it.

### **What if I'm not sure whether my debt is time-barred?**

Ask the collector when its records show you made your last payment. You also can send the collector a letter within thirty (30) days of receiving a written notice of the debt. Explain why you're disputing the debt and that you want to verify it. A collector must stop trying to collect until it gives you verification.

### **Does a time-barred debt stay on my credit report?**

Maybe. The statute of limitations for a debt is usually different from the reporting period for a debt on your credit report. In general, negative information stays on your credit report for seven (7) years.

### **Do I have to pay a debt that's considered time-barred?**

It's up to you. Consider talking to an attorney before you decide. You can:

- Pay nothing. The collector can't sue you but can continue to contact you unless you send a letter by mail asking for contact to stop.
- Make a partial payment. In some states, if you pay any amount on a time-barred debt or even promise to pay, the debt is "revived," and the statute of limitations resets. The collector might be able to sue you to collect the full amount of the debt, which may include extra interest and fees.
- Pay off the debt. Some collectors will accept less than what you owe to settle a debt. Before you make any payment to settle a debt, get a signed form or letter from the collector that says the amount you're paying settles the entire debt and releases you from any further obligation. Also, keep a record of the payments you make to pay off the debt.

### **What should I do if I'm sued for a time-barred debt?**

You still need to respond. Consider talking to an attorney. If you ignore a lawsuit, the collector could get a court judgment and garnishment against you. Tell the judge the debt is time-barred and show a copy of the verification notice from the collector or any information that shows the date of your last payment.

### **Where do I report a debt collector for an alleged violation?**

Report any problems you have with a debt collector to the Attorney General's Consumer Protection Division at 1-800-300-1986 or [consumerhelp@state.sd.us](mailto:consumerhelp@state.sd.us), or file a complaint at [www.consumer.sd.gov](http://www.consumer.sd.gov).

## **Medical Debt**

**Don't ignore the bills.** Burying your head in the sand won't make the bills go away. In fact, it could make the situation worse. Doctors and other medical providers will only collect on your account for a few months before they send the account to a

collection agency. At that point, the medical bill goes on your credit report and hurts your future chances of borrowing money, e.g. for a house. You can also be sued for the debt, which could result in a judgment, bank levy, or wage garnishment.

**Make sure you have a bill, not just an Explanation of Benefits (EOB).** Health insurance companies send an EOB to explain what's been paid on your behalf. The EOB can actually give you a heads up to medical bills that are on their way. If the EOB shows the insurance company only paid part of the claim, you can expect the doctor's office to send a bill soon.

**Verify the item isn't covered by insurance.**

Medical billing is complex, and mistakes can happen. Make sure your doctor's office billed the insurance company for the right services. Make sure what you're being billed matches with your EOB. Being proactive in clearing up mistakes. Some insurance companies offer incentives for notifying them of incorrect billings.

**Make payment arrangements.** Immediately contact your doctor's office if you're not able to pay your bill in full. This should be done even if you are disputing coverage with the insurance company. Ask the billing department to notate this in your file and that you're not just ignoring the bill. If you are responsible for the balance, ask for a payment plan. Make sure you review your budget to figure out what you can afford. As with any other bill, make your payments on time each month. Otherwise, your account may be sent to a collection agency despite your previous payments.

**When Can I Be Sent to Collections on a Medical Bill?**

- There is a misconception that if you are making any sort of payment the medical provider cannot send you to collections and that is NOT true. You may find your account turned over to collections with no advance warning if you don't have a payment agreement in place. In addition, if you are late with a payment under a payment agreement - even by one day - you may find your account in collections. There is no federal law that stops a medical provider from turning an unpaid account over to collections just because you are making payments.
- While you are disputing a bill. If you have not paid a bill because you are disputing it, or if you are waiting for your insurance company to pay it, beware! Your bill may be turned over to collections with no advance warning.
- If a medical bill remains unpaid - even if you never received a billing statement! We have heard from consumers who first hear about a medical bill from a collection agency. There is no federal law that protects you from this type of situation.

If you have questions regarding a medical collection, please contact the Attorney General's Consumer Protection Division at 1-800-300-1986 or (605) 773-4400, or by going to the website at [www.consumer.sd.gov](http://www.consumer.sd.gov).



## WAGE GARNISHMENT

A wage garnishment or wage attachment is an order from a court or a government agency that is sent to your employer. It requires your employer to withhold a certain amount of money from your paycheck and then send this money directly to your creditor.

South Dakota law protects a portion of your wages so that your creditors can only garnish (take) a limited amount of your wages to repay your debts. The South Dakota wage garnishment laws (sometimes referred to as wage attachments or withholding) protect more of your income than federal wage garnishment laws. For the most part, creditors with judgments can take only 20% of your wages.

If you have more than one garnishment, the total amount that can be garnished is limited to 20%. For example, if the federal government is garnishing 15% of your income to repay defaulted student loans and your employer receives a second wage garnishment order, the employer can only take another 5% of your income to send to the second creditor.

### **When Can a Creditor Garnish Your Wages in South Dakota?**

Most creditors cannot get a wage garnishment order until they have first obtained a court judgment stating that you owe the creditor money. For example, if you are behind on credit card payments or owe a dentist bill, those creditors cannot garnish your wages (unless they sue you and get a judgment).

However, there are a few exceptions to this rule. Your wages can be garnished without a court judgment for:

- Unpaid income taxes.
- Court ordered child support.
- Child support arrears.
- Defaulted student loans.

### **Restrictions on Job Termination Due to Wage Garnishments**

Complying with wage garnishment orders can be a hassle for your employer; some might be inclined to terminate your employment rather than comply with the order. State and federal law provides some protection for you in this situation. According to federal law, your employer cannot discharge you if you have one wage garnishment. However, federal law won't protect you if you have more than one wage garnishment order.

### **For More Information on South Dakota Wage Garnishment Laws**

To find out more about wage garnishment limits in South Dakota, including information about garnishments as a result of unemployment overpayment, check out the website of the South Dakota Department of Labor and Regulation at <http://dlr.sd.gov> and click on Unemployment Insurance, Overpayments, and then Collections.

# DEBT RELIEF CREDIT COUNSELING & DEBT CONSOLIDATION

Living paycheck to paycheck? Worried about debt collectors? Can't seem to develop a workable budget, let alone save money for retirement? If this sounds familiar, you may be considering the services of a credit counselor or a debt consolidation company.

## What's the difference between a credit counselor and a debt settlement company?

Credit Counseling Services that assist with debt	Debt Settlement Companies
Usually non-profit organizations	For-profit companies or law firms
Advise you on managing your money and debts and help you budget your payments	Offer to arrange settlements of your debts with creditors or debt collectors
Reach up-front agreements with your creditors to ensure that the creditors will not pursue collection efforts or charge late fees	Often have no up-front agreements with creditors
Usually do not negotiate any reduction in the amounts you owe - instead, they can lower your overall monthly payment	Typically offer to pay off your debts with lump sum payments that are less than the full amounts you owe
Do not advise you to stop paying your debt, but may help negotiate your monthly payments	Usually require that you stop paying your creditors to succeed in a debt settlement program


## CREDIT COUNSELING

Reputable credit counseling organizations can advise you on managing your money and debts, help you develop a budget, and offer free educational materials and workshops. Their counselors are certified and trained in consumer credit, money and debt management, and budgeting.

Here are some questions to ask to help you find the best counselor for you.

- **What services do you offer?** Look for an organization that offers a range of services, including budget counseling, and savings and debt management classes. Avoid organizations that push a debt management plan (DMP) as your only option before they spend a significant amount of time analyzing your financial situation.
- **Do you offer information?** Are educational materials available for free? Avoid organizations that charge for information.
- **In addition to helping me solve my immediate problem, will you help me develop a plan for avoiding problems in the future?**



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- **What are your fees?** Are there set-up and/or monthly fees? Get a specific price quote in writing.
  - **What if I can't afford to pay your fees or make contributions?** If an organization won't help you because you can't afford to pay, look elsewhere for help.
  - **Will I have a formal written agreement or contract with you?** Don't sign anything without reading it first. Make sure all verbal promises are in writing.
  - **Are you licensed to offer your services in my state?**
  - **What are the qualifications of your counselors?** Are they accredited or certified by an outside organization? If so, by whom? If not, how are they trained? Try to use an organization whose counselors are trained by a non-affiliated party.
  - **What assurance do I have that information about me (including my address, phone number, and financial information) will be kept confidential and secure?**
  - **How are your employees paid?** Are they paid more if I sign up for certain services, if I pay a fee, or if I make a contribution to your organization? If the answer is yes, consider it a red flag and go elsewhere for help.

Depending on your situation a credit counseling agency may recommend that you enroll in a debt management plan (DMP). A DMP alone is not credit counseling, and DMPs are not for everyone. Don't sign up for one of these plans unless and until a certified credit counselor has spent time thoroughly reviewing your financial situation and has offered you customized advice on managing your money. Even if a DMP is appropriate for you, a reputable credit counseling organization still can help you create a budget and teach you money management skills.

In a DMP, you deposit money each month with the credit counseling organization. It uses your deposits to pay your unsecured debts, like your credit card bills, student loans, and medical bills, according to a payment schedule the counselor develops with you and your creditors. Your creditors may agree to lower your interest rates or waive certain fees. Some questions you should ask yourself before considering enrolling in a DMP.

- **Is a DMP the only option you can give me?** Will you give me on-going budgeting advice, regardless of whether I enroll in a DMP?
- **How does your DMP work?** How will you make sure that all my creditors are paid by the applicable due dates and in the correct billing cycle?
- **How is the amount of my payment determined?** What if the amount is more than I can afford? Don't sign up for a DMP if you can't afford the monthly payment.
- **How often can I get status reports on my accounts?** Can I get access to my accounts online or by phone? Make sure that the organization you sign up with is willing to provide regular, detailed statements about your account.

- **Can you get my creditors to lower or eliminate interest and finance charges, or waive late fees?** If yes, contact your creditors to verify this, and ask them how long you have to be on the plan before the benefits kick in.
- **What debts aren't included in the DMP?** This is important because you'll have to pay those bills on your own.
- **Do I have to make any payments to my creditors before they will accept the proposed payment plan?** Some creditors require a payment to the credit counselor before accepting you into a DMP. If a credit counselor tells you this is so, call your creditors to verify this information before you send money to the credit counseling agency.
- **How will enrolling in a DMP affect my credit?** Beware of any organization that tells you it can remove accurate negative information from your credit report. Legally, it can't be done. Accurate negative information may stay on your credit report for up to seven years.
- **Can you get my creditors to "re-age" my accounts** — that is, to make my accounts current? If so, how many payments will I have to make before my creditors will do so? Even if your accounts are "re-aged," negative information from past delinquencies or late payments will remain on your credit report.

A reputable credit counseling agency should send you free information about itself and the services it provides without requiring you to provide any details about your situation. If a firm doesn't do that, consider it a red flag and go elsewhere for help.


The telemarketing sales rule (TSR) prohibits companies that sell debt relief services by phone from charging a fee before they settle or reduce your debt. The debt relief service must explain their fees and conditions of their services **before** you sign up.

## **DEBT SETTLEMENT PROGRAMS**

Debt settlement programs are typically offered by for-profit companies to people with significant credit card debt. The companies negotiate with your creditors to let you to pay a "settlement," or lump sum of money that's less than what you owe to settle your debt. Meanwhile, you must set aside a specific amount of money every month in a designated account until you have enough savings to pay off any settlement that is reached. ***The process can take years to complete.***

### **What does a debt settlement company have to tell me upfront before I sign up for services?**

- Fees and any conditions and terms of service.
- How long it will take to get results.
- The possible negative consequences of stopping payments to your creditors.
- How much you must save in a dedicated account before the company will make an offer to each creditor on your behalf.
- That the money you save in the account, plus interest, is yours, and you can withdraw it any time without penalty.



Debt settlement can be risky. One of the biggest issues is that some debt settlement programs might encourage you to stop sending payments directly to your creditors which could have a very negative impact on your credit report and other serious consequences. Do not enter into a debt settlement program without knowing exactly what your responsibilities are and what the company's responsibilities are.

### **What are some signs I'm dealing with a debt relief scam?**

Avoid any debt relief organization — whether it's offering credit counseling, debt settlement, or any other service — that:

- Guarantees to settle all your debts or provide fast loan forgiveness.
- Tries to collect fees from you before it settles any of your debts or enters you into a debt management plan.
- Tries to enroll you in its program without first reviewing your financial situation.
- Advertises a "new government program."
- Tells you to stop communicating with your creditors but doesn't explain the serious consequences.
- Tells you it can stop all debt collection calls and lawsuits.

Enter the name of the company with the word "complaints" into a search engine. Read what others have said about the companies you're considering. Also check with the Attorney General's Consumer Protection Division at 1-800-300-1986.

### **DEBT CONSOLIDATION LOANS**

Another way some people lower their monthly payments on their debt is to consolidate it through a second mortgage or a home equity line of credit, or by taking out a personal debt consolidation loan from a bank or finance company.

Some of these loans require you to put up your home as collateral. If you can't make the payments — or if your payments are late — you could lose your home. Most consolidation loans have costs. In addition to interest, you may have to pay "points," with one point equal to one percent of the amount you borrow. Do your homework just like you would for any loan.

### **BANKRUPTCY**

#### **What does filing for personal bankruptcy do?**

People who file for personal bankruptcy receive a discharge — a court order that says they don't have to repay certain debts.

Bankruptcy is generally considered your last option because of its long-term negative impact on your credit. Bankruptcy information (both the date of your filing and the later date of discharge) stays on your credit report for ten (10) years, and can make it difficult to get credit, buy a home, get life insurance, or get a job. Still, bankruptcy can offer a fresh start for someone who's gotten into financial trouble.

The two main types of personal bankruptcy are Chapter 13 and Chapter 7. Both types of bankruptcy may get rid of unsecured debts like credit card or medical debt and stop foreclosures, repossessions, garnishments and utility shut-offs, as well as debt collection activities. Filings take place in federal bankruptcy court. Filing fees are several hundred dollars, and attorney fees are extra. For more information, visit [United States Bankruptcy Courts](https://www.sdb.uscourts.gov/) at <https://www.sdb.uscourts.gov/>

### **What's the difference between Chapter 13 and Chapter 7 bankruptcy?**

Chapter 13 lets people with a steady income keep property, like a mortgaged house or a car, that they might otherwise lose through the bankruptcy process. In Chapter 13, the court approves a repayment plan that allows you to pay off your debts in three to five years, rather than give up any property. After you make all the payments under the plan, you receive a discharge of your debts.

Chapter 7 is known as straight bankruptcy. It involves liquidating all your assets that are not exempt. Exempt assets might include cars, work-related tools, and basic household furnishings. Some of your property may be sold by a court-appointed official, called a trustee, or turned over to your creditors.

### **What debt won't be erased by filing for personal bankruptcy?**

Filing for personal bankruptcy usually won't erase child support, alimony, fines, taxes, and most student loan obligations, unless you can prove undue hardship. And, unless you have an acceptable plan to catch up on your debt under Chapter 13, bankruptcy usually doesn't allow you to keep property when your creditor has an unpaid mortgage or security lien on it.

### **What do I need to do before I file for bankruptcy?**

You have to get credit counseling from a government-approved organization up to six months before you file for any bankruptcy relief. You can find a state-by-state list of government-approved agencies at the [U.S. Trustee Program](#), the organization within the [U.S. Department of Justice](#) that supervises bankruptcy cases and trustees.

### **After I pay off my debt, is there anything I can do about my credit?**

No one can legally remove accurate negative information from your credit report — so don't believe anyone that tells you otherwise.

Only time can make accurate information go away. A credit reporting agency can report most accurate negative information for seven years and bankruptcy information for ten (10) years. Information about an unpaid judgment against you can be reported for seven years or until the statute of limitations runs out, whichever is longer. The seven-year reporting period starts from the date the event took place.

## MEDICARE

Medicare is a health insurance program for persons age 65 and older, certain younger people with disabilities, or individuals of any age with permanent kidney damage. It is administered by the Centers for Medicare and Medicaid Services (CMS) a division of the U.S. Department of Health & Human Services (HHS). Enrollment is handled by the federal Social Security Administration.

Any U.S. citizen or legal resident turning 65 is entitled to an initial enrollment period that lasts seven months. The initial enrollment period is from three (3) months before the month of their 65th birthday to three (3) months after that month. For example, if you turn 65 in June, your enrollment period is March 1 to September 30.

**Here are the standard parts of Medicare:**

### **MEDICARE PART A (HOSPITAL INSURANCE)**

You usually do not pay a premium for Medicare Part A coverage if you or your spouse paid Medicare taxes while working.

- Helps cover inpatient care in hospitals.
- Helps cover skilled nursing facility, hospice, and home health care.

### **MEDICARE PART B (MEDICAL INSURANCE)**

Part B Medicare is voluntary and covers the service of doctors, out-patient care, durable medical equipment, routine mammograms for the elderly, and some other services. You are automatically enrolled in Part B when you become entitled to Part A benefits, unless you specify that you do not want this component. *Contact the SHINE office closest to you for more information about enrollment, coverage, cost savings, appeals, or to report concerns on Medicare fraud, waste, and abuse.*

### **MEDICARE PART D (PRESCRIPTION DRUG COVERAGE)**

Medicare Part D plans are prescription drug plans that work like insurance, and they're open to anyone with Medicare. Each Part D plan is different — each has a different list of medications they cover, known as formularies, or certain medications may be available only in a certain area. Medicare doesn't operate the plans; they are run by Medicare-approved private insurance companies.

**Donut Hole** - Medicare Prescription Drug Plans have a coverage gap (also called the “donut hole”). This means there's a temporary limit on what the drug plan will cover for drugs. Not everyone will enter the coverage gap. The coverage gap begins after you and your drug plan have spent a certain amount for covered drugs, this amount may change each year. People with Medicare who receive Extra Help paying Part D costs won't enter the coverage gap. To help avoid overspending, and to ensure all your prescriptions can be filled at your pharmacy of choice, please review your Part D choices each year during the Open Enrollment Period starting, October 15th through December 7<sup>th</sup>. *Contact SHINE for assistance in reviewing your options.*



Unfortunately, not everyone who contacts you about Medicare coverage has the best intentions. Scam artists also follow the headlines, and they are reportedly contacting eligible people claiming to represent a Medicare plan. In most instances what they really want is your personal information, such as your Social Security Number, your checking account number, or credit card account numbers, which they use to try to commit financial fraud.

**To protect consumers, the law is very specific about what people representing Medicare plans are NOT allowed to:**

- Ask for your personal information (like your Social Security, bank account, or credit card numbers) over the phone.
- Come to your home uninvited to sell or endorse any Medicare-related product.
- Call you unless you're already a member of the plan. If you're a member, the agent who helped you join can call you.
- Offer you cash (or gifts worth more than \$15) to join their plan or give you free meals during a sales pitch for a Medicare health or drug plan.
- Enroll you into a plan, in general, over the phone unless you call them and ask to enroll.
- Ask you for payment over the phone or web. The plan must send you a bill.
- Sell you a non-health related product, like an annuity or life insurance policy, during a sales pitch for a Medicare health or drug plan.
- Make an appointment to tell you about their plan unless you agree in writing or through a recorded phone discussion to the products being discussed. During the appointment, they can only try to sell you the products you agreed to hear about.
- If you suspect your Medicare benefits are being subject to fraud, waste, or abuse please contact SHIINE.



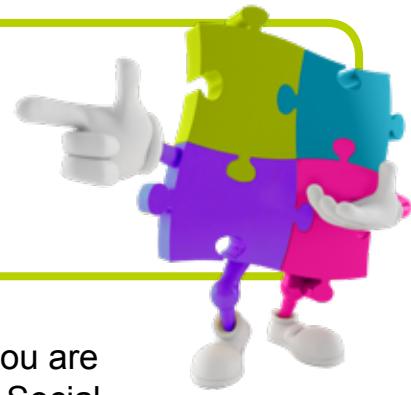
**PLEASE NOTE:**

**Independent agents and brokers selling plans must be licensed by the South Dakota Division of Insurance, and the plan must tell the State which agents are selling their plans. If you suspect the person you are dealing with is not a licensed agent, contact the Division of Insurance at 605-773-3563.**

**SHINE**

Senior Health Information and Insurance Education is a federally funded program through the Administration for Community Living (ACL) and administered by the South Dakota Department of Human Services Division of Long Term Services and Support (LTSS). See the Reference Guide for contact information in your area.

SHINE is not affiliated with any company that sells or distributes a product or service. SHINE provides free, confidential and unbiased information to Medicare beneficiaries on helping you understand Medicare and your benefits .



### **Protecting Your Personal Information**

It's important to protect your personal information, even when you are shopping for Medicare plans. If your personal information (your Social Security, Medicare ID, credit card or bank account numbers) gets into the wrong hands, it can be misused.

- Keep all your personal information close. Don't give it out until you are sure that a company is working with Medicare and their product is approved by Medicare.
- Don't sign up for a plan over the phone unless YOU make the call.
- Take a friend or family member with you if you decide to attend a sales pitch.
- Report scams and suspicious activity to Medicare. If you think someone is misusing your personal information, call Medicare at 1-800-633-4227, the U.S. Department of Health and Human Services Fraud Hotline at 1-800-447-847, or your local SHINE office. Also report the information to the Attorney General's Consumer Protection Division at 1-800-300-1986.

## **ASSISTED LIVING CENTERS**

Assisted living is a residential alternative that promotes maximum independence for each resident through a combination of supportive services and assistance.

Each assisted living center may vary in size, style and optional services. According to South Dakota Law, any health care facility or related institution for the care of people, including assisted living, must obtain a license from the Department of Health. This would not include those residences that only offer room and board. Assisted living centers are intended to be an alternative for individuals who do not need 24-hour nursing care but do need a combination of housing and assistance.



### **Questions to ask when considering an assisted living center:**

- Do the residents appear to be well attended?
- Is the assisted living center clean and odor free?
- Does there appear to be adequate staff for the number of residents?
- Can a resident bring their personal furniture or belongings?
- Are there activities, individual or group, offered at the center?

- Does the resident have privacy during family visits?
- Would the center consider a short-term stay for a trial period?

When trying to choose the right assisted living center, there are many things to consider. If you need more information, contact Dakota at Home at 1-833-663-9673 or email [DakotaatHome@state.sd.us](mailto:DakotaatHome@state.sd.us).

## NURSING HOMES

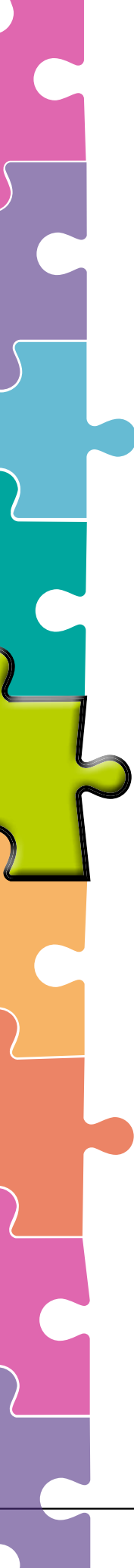
When a person is no longer able to live independently, a nursing home might become an option. Federal law provides for an assessment of the individual's health and social needs when the individual is admitted to a nursing home. The assessment is conducted by a nursing facility social worker. The worker will prepare an individual care plan. If appropriate, a referral will be made to state programs and other community resources so that the person can remain at home. If a family member needs to be placed in a nursing home, you will need to choose a home that best fits your family member's needs. Begin the process of choosing by selecting a few homes in your area. You can also ask for recommendations from friends who have family in nursing homes. Your family physician might also be a good resource.

You should visit each nursing home personally before making a decision. Pay attention to the details while you are there and be sure to ask lots of questions.

### Some things you'll want to take note of include:

- Are the residents clean and involved in activities?
- Are outings planned?
- Are church services planned?
- How often do they see others from the community?
- Does there appear to be adequate staff for the number of residents? Are the staff within sight of the residents?
- Are the rooms clean and private?
- Do residents appear well-nourished?
- How long have the nurse's aides been working there? A high turnover rate is a bad sign.
- How are medical emergencies handled and how far away is the nearest hospital?
- Does it appear restraints or sedatives have been overused?
- Do the current residents of the home like or dislike the facility? Why?

Those tips will give you a good start in choosing a nursing home. But, before you make a final decision, read the contracts and policies carefully. Discuss payment options and make all necessary arrangements. Contact the **Department of Health at 605-773-3361** and ask about the home's compliance with state regulations.



Long-term Services and Supports also has an Ombudsman Program. The program receives and investigates complaints made on behalf of residents of long-term care facilities. The Ombudsman is an advocate for the individual and provides information and assistance to residents and their families. To be put in contact with an Ombudsman contact **Dakota at Home at 1-833-663-9673**.

### **DAKOTA AT HOME**

Dakota at Home, South Dakota's Aging and Disability Resource Center (ADRC) provides, unbiased information, referral, and assistance to help individuals identify and access public and private long-term services and supports regardless of age, disability, or income. Trained Resource Specialists will provide answers to your questions.

Dakota at Home also offer education and knowledge to plan for tomorrow on how to meet your long-term care needs at home and in the community where you live.

Options Planning helps individuals, caregivers and family members identify the long-term services and supports they need to remain living at home for as long as possible. When people are able to make informed decisions, they are likely to be more satisfied with their quality of life. For additional information contact **Dakota at Home at 1-833-663-9673**, email at [dakotaahome@state.sd.us](mailto:dakotaahome@state.sd.us) or visit their website at [www.Dakotaathome.org](http://www.Dakotaathome.org)

## **LONG-TERM CARE INSURANCE**

There are many different types of long-term care insurance policies on the market. Long-term care includes non-medical care for people who have a chronic illness or disability. This includes non-skilled personal care assistance with everyday activities, such as dressing, bathing, and using the bathroom. At least 70% of people over 65 will need long-term care services and support at some point. These policies cover a wide range of services including nursing home care, home health care, respite care, and adult day care. Long-term care costs can be very expensive. **Medicare and most health insurance plans, including Medicare Supplement Policies (Medigap) policies don't usually pay for long-term care costs.** This is why many people depend on the state Medicaid program, a long-term care policy, or their own assets to pay for long-term care.

### **Things to consider when purchasing a long-term care policy:**

- Financial stability of the company.
- History of premium increases.
- Which product best suits your needs. Review the level of protection a policy provides.
- Maximum benefit of the policy (two (2) years, five (5) years, lifetime).
- How many days you have to be in a nursing home before the policy starts to pay.

- If benefits are available for home health care or adult day care.

The sale of long-term care insurance is regulated by the South Dakota Division of Insurance. The Division has established some rules that carriers must meet when selling long-term care policies. These rules are designed to protect consumers and to ensure seniors are getting a quality product.

Some of these include:

- Your agent must provide you with an outline of your coverage.
- You have a 30-day period in which the policy may be returned for a full refund.
- The insurance company may deny coverage for a pre-existing condition for no longer than six months.
- A long-term care insurance policy may not exclude benefits based on organic brain disease, including Alzheimer's or senile dementia.

Once issued, the policy may not be canceled, non-renewed or otherwise terminated. Other laws and protections do exist. For more information, to file an insurance complaint, or to obtain a shopper's guide, contact the South Dakota Division of Insurance at 605-773-3563.

### **What is long-term care?**

Long-term care includes a wide range of services provided to people who need continued help with Activities of Daily Living, such as: bathing, dressing, eating, using the toilet, continence, transferring from a bed to a chair.

### **South Dakota's Long-Term Care Partnership Program**

The South Dakota Long-Term Care Partnership Program, administered by the **Department of Social Services (605-773-3165)** and **Division of Insurance (605-773-3563)**, provides an alternative to spending down or transferring assets by forming a partnership between Medicaid and private long-term care insurers.

When thinking about long-term care and the cost - the thought of having to use your entire life savings to pay for those needs and services can be very overwhelming. Many elderly individuals believe their long-term costs will be covered by Medicare; the truth is that Medicare does not cover most long-term care.

This public-private partnership creates an innovative program offering individuals quality, affordable long-term care insurance and a way to receive needed care without depleting all your assets.

## **DURABLE MEDICAL EQUIPMENT (DME)**

Medical equipment can be an expensive part of health care. That's why it's important to purchase equipment that is right for you. Before purchasing any equipment, determine if it will be covered by your insurance or Medicare. If your insurance will not cover the purchase, other options might be available. Your local hospital or health



care provider may have a list of agencies that, lease, loan, or provide equipment to those who need assistance.

Medicare Part B (Medical Insurance) covers durable medical equipment (DME) that your doctor prescribes for use in your home. Only your doctor can prescribe medical equipment for you. DME must meet the following criteria:

- Durable (long-lasting).
- Used for a medical reason.
- Not usually useful to someone who isn't sick or injured.
- Used in your home.

Medicare will only cover your DME if your doctor or supplier is enrolled in Medicare. It's important to ask the DME if they are a "participating" supplier, if they are not a "participating" provider they may choose not to accept the Medicare approved amount as payment in full, and there would then be no limit to what they can charge you for the DME. The same would be true with private insurance, if there is not a contractual agreement in place between your insurance provider and the DME you may be held responsible for the full cost.

If a purported company calls indicating they've been contacted by your doctor because he/she would like you to receive a piece of medical equipment, ask for their business name and phone number, and then contact your doctor's office to verify that they did in fact contact them. Do not give out your Medicare or Insurance number unless you have verified with your doctor first. You should also report this occurrence to the Attorney General's Consumer Protection Division at 1-800-300-1986 or 605-773-4400.

## DISCOUNT DRUG & MEDICAL PLANS

Looking for health insurance? Make sure that's what you're buying, or you could find yourself on the hook for big medical bills with no way to pay them. That's because what sounds like affordable health insurance may be a medical discount plan instead. **Medical Discount Plans are a way for some to save money, but it is NOT insurance.**

The plans generally consist of but are not limited to programs offering discounts on physician, prescription drugs, vision, dental, chiropractic, or massage therapy services. If you are offered a discount on your health care expenses by a company, you should make sure that the company has South Dakota medical providers in your area who are willing to honor those discounts.



By law these discount plans must give you a list of the medical providers in this state who are accepting discounts. If you are not satisfied with the plan that you have purchased you do have thirty (30) days in which to cancel it and get a refund of the premiums, less a processing fee. Businesses selling these programs must be registered with the Division of Insurance.

### Here are some tips to remember when considering discount drug & medical plans:

- **Question discounts of “Up To.”** Some plans offer discounts of up to 70% - but how often will you save that much? Savings with discount plans typically are a lot less. When you consider a discount plan’s monthly premiums and enrollment fees, there may be no “discount” at all. What’s more, if you have major health problems or an emergency, you will have to cover most, or all, of the bills if you don’t have health insurance.
- **Lose your health coverage.** You could be giving up your current health coverage, mistakenly by believing you found a better insurance deal.
- **You’re saddled with large medical bills.** You’ll have to pay medical bills yourself if you’re scammed into believing you have real insurance.
- **Some pitches are after your information.** Unfortunately, identity thieves also use pitches for medical discount plans and insurance to get your personal information. Don’t give out your financial information to someone who calls you out of the blue, or whose reputation you haven’t checked out.

If you have any questions or problems with a discount plan, contact the SD Division of Insurance at 605-773-3563 or the Attorney General’s Consumer Protection Division at 1-800-300-1986 or 605-773-4400. The Division of Insurance maintains a list of registered discount plans on their website: [https://dlr.sd.gov/insurance/company\\_listings/discount\\_medical\\_plan\\_organizations.aspx](https://dlr.sd.gov/insurance/company_listings/discount_medical_plan_organizations.aspx)

## PHARMACY

Have you ever been tempted to buy your medicines from an online pharmacy or another website in an attempt to save money? There are many pharmacy websites that operate legally and offer convenience, privacy, and safeguards for purchasing medicines, however there are many rogue online pharmacies that claim to sell prescription medicines at deeply discounted prices, often without requiring a valid prescription. These Internet-based pharmacies often sell unapproved or counterfeit medicines outside the safeguards followed by licensed pharmacies.



These rogue sites often prominently display a Canadian flag but may actually be operated by criminals from the other side of the globe with no connection to Canada.

Medicines bought from these websites can be dangerous and may put your health at risk.

How can you tell if an online pharmacy is operating legally? The Federal Drug Administration's (FDA) **BeSafeRx** can help you identify and avoid fake online pharmacies. Before you make a purchase, we would encourage you to visit the FDA's website for the latest information regarding this extremely important purchase by going to [www.fda.gov](http://www.fda.gov)

## **OPIOIDS**

Opioids are highly addictive narcotic substances commonly prescribed for chronic pain after surgery or injury. Opioids must be used with extreme caution even though they can provide powerful relief for those struggling with chronic pain.

There are serious risks associated with taking opioids including: addiction, long-term health problems, paralysis, and death. To learn more about opioids such as understanding addiction, prevention, and how you can find help please visit [www.avoidopioidssd.com](http://www.avoidopioidssd.com). Avoid Opioid SD is a joint effort between the South Dakota Department of Health and Department of Social Services to address abuse and misuse in the state as part of the South Dakota Opioid Abuse Strategic Plan.

## **SOCIAL SECURITY**

Social security is a federal retirement program. It provides payments to retired workers between the ages of 65-67. Reduced benefits are available beginning at age 62. However, if you start benefits early, your benefits are reduced a fraction of a percent for each month before your full retirement age.



### **How far in advance can I apply for Social Security retirement benefits?**

You can apply for Social Security retirement benefits when you are at least 61 years and 9 months of age. You should apply three months before you want your benefits to start.

Even if you are not ready to retire, you still should sign up for Medicare three months before your 65th birthday.

### **What is the full retirement age?**

The current full retirement age is 66. The age when retired people can receive full benefits is increasing gradually to age 67. (The age for Medicare eligibility remains at 65.)

- Social Security benefits are increased by a certain percentage (depending on date of birth) if you delay your retirement beyond full retirement age.
- Family members of retired or deceased workers are also eligible to collect survivors, widows, or widowers' benefits. Again, certain qualifications must be met in order to qualify.
- You should apply for Social Security benefits three months prior to the date benefits are to start, but not later than the month before reaching retirement age.
- Social security also provides disability and survivor benefits to qualifying recipients and is responsible for the Medicare A program. If you are not yet at full retirement age, but have significant medical problems, you may qualify for disability benefits.
- To qualify for disability benefits, you must first meet an earnings test and then a disability test.
- Some people may be sent to a vocational rehabilitation program to obtain therapy, training, and assistance finding a job.
- For those who meet the disability requirements, benefits will start six months after the Social Security Administration determines when the disability began. Dependents of a disabled worker are also eligible to collect benefits.
- The amount of Social Security benefits you will receive depends on your earnings record and the length of time you worked at employment covered under the program.
- The Social Security program is very complex. Contact your local Social Security office for any questions you may have at 1-800-772-1213 or visit [www.socialsecurity.gov](http://www.socialsecurity.gov)

## SUPPLEMENTAL SECURITY INCOME

The Supplemental Security Income (SSI) is a federal income supplement program designed to provide a minimum monthly income to people age 65 and over, or blind and disabled people, with limited income and resources. Monthly benefits are based on need. You may be eligible even if you have never worked or paid into the social security system. SSI limitations change on an annual basis.

You can apply through the online application at <https://www.ssa.gov/benefits/disability/>, or by calling 1-800-772-1213 (or TTY 1-800-325-0778) to make an appointment, or by visiting your local Social Security Administration office, without an appointment please anticipate a longer wait time.

If the Social Security Administration declares you are not eligible for SSI or reduces your SSI check, you can appeal their decision. You need to appeal within ten (10) days to keep your benefits at the existing rate.

## APPEALS

You can appeal most determinations and decisions about whether you can get Supplemental Security Income (SSI) or if the Social Security Administration makes



changes to your benefit amount. That means you can ask the Social Security Administration to look at your case again. There are levels to your appeal process.

First an initial determination is made, you will receive a notice. If you want to appeal the initial determination in that notice, you must request an appeal in writing within sixty (60) days of the date you receive your notice. The notice will tell you how to appeal. If you file an appeal within ten (10) days, your SSI benefits may continue at the same amount until a determination on your appeal is made.

If you disagree with the initial determination, you may request reconsideration in writing. The reconsideration request must be received within sixty (60) days from receipt of the initial written determination notice. Social Security Administration considers that you receive a notice five (5) days after the date on the notice. If you ask for reconsideration in writing within ten (10) days, any payment currently being made will continue until determination, if you continue to meet all other SSI eligibility requirements.

If you disagree with the reconsideration determination, you or your representative may request a hearing before an Administrative Law Judge (ALJ) in writing. You or your representative must request a hearing within sixty (60) days after you get the notice of reconsideration determination (or, in certain States, the initial determination). After that you may appeal to the Appeals Council. Your last option is to file suit in your local Federal District Court.

All appeals must be made in writing. It is advisable to obtain assistance from an attorney when you decide to appeal. You can, however, be represented by anyone you choose.

## REPRESENTATIVE PAYEESHIP

In the event you are no longer able to manage your government benefits, a representative payee may be appointed to manage them.



The person asking to be named as the representative payee must file an application with the Social Security Administration. That person must also supply evidence that he or she is related to or cares for the beneficiary of the payments.

The beneficiary does not have to be ruled legally incompetent to obtain a representative payee. The agency paying the benefits does need to find the beneficiary unable to manage their benefits.



The appointed representative payee usually has a continuous relationship with the beneficiary and has shown strong concern for the personal well-being of that person. If no such person exists, a qualified public or private agency may be appointed the position.

The representative payee must use the payment for the needs of the beneficiary. A written report of how the funds are being used must be submitted by the representative to the Social Security Administration.

Beneficiaries can terminate their relationship with the representative at any time. This is done by the beneficiary proving he/she can manage their benefits. If the representative is not acting in the best interest of the beneficiary, the representative can be removed.

For more information, contact your local Social Security Administration.

## MEDICAID

Medicaid is a medical assistance program designed to provide health care to persons who meet strict financial and medical requirements. Most of the individuals covered by South Dakota Medicaid are children. Other individuals covered by South Dakota Medicaid include low-income pregnant women, parents, and other caretaker relatives, individuals in nursing homes, and individuals with physical or developmental disabilities.

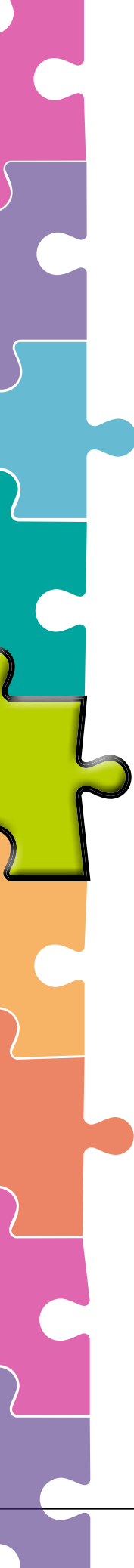
For more information about Medicaid programs, contact your local Department of Social Services or visit [www.dss.sd.gov](http://www.dss.sd.gov). For those individuals who qualify for the above programs, Medicaid covers many health care expenses, and provides payment directly to the provider. If you receive a bill for a service paid by Medicaid, contact Social Services.

### Spend Downs

South Dakota is an income cap state, meaning that in order to be eligible for Medicaid long term care benefits there is a hard income limit. People may attempt to qualify for Medicaid by giving away their property and assets. This is referred to as Medicaid “spend down.” People considering gifts to liquidate their estate for the purpose of qualifying for Medicaid need to make sure those gifts are not in violation of the law. Before you begin to transfer or maneuver your assets, contact an attorney to make sure you are not violating any laws. Transfer laws may change; be aware of the rules in effect when you apply for Medicaid.

## MEDICAID FRAUD CONTROL UNIT

The Medicaid Fraud Control Unit (MFCU) investigates and prosecutes fraud and abuse committed by physicians, hospitals, laboratories, pharmacists, dentists, ambulance and taxi services, sellers of durable medical equipment, and other service providers.



The MFCU seeks to recover monies improperly paid by the Medicaid program and to prosecute criminal conduct.

**Responsibilities:**

- Provider Fraud
- Patient Abuse or Neglect
- Misappropriation of Property

A provider is any person or entity who bills the South Dakota Medicaid Program for goods or services provided to a Medicaid recipient. The actual fraudulent schemes engaged in by dishonest providers are too numerous to count.

**Provider fraud comes in numerous forms, including:**

- Billing for services not performed or for products not received.
- Billing for a more expensive service than what was actually rendered.
- Billing for several services that should be combined into one billing.
- Billing twice for the same goods or services.
- Billing the Medicaid Program and the recipient's family for the same goods or services.
- Performing unnecessary medical services.
- Dispensing generic drugs and billing the Medicaid program for the more expensive brand-name drug.

**MISAPPROPRIATION OF PROPERTY**

Elderly and disabled persons who live in facilities that receive federal funding, such as nursing homes, are sometimes targets of persons seeking financial gain. Some common examples of misappropriation of property schemes that the Medicaid Fraud Control Unit has authority to investigate and prosecute are:

- An employee of a facility gains access to resident finances/bank accounts and diverts assets to themselves.
- An employee of a facility commits identity theft by using resident Social Security numbers, etc., to open a credit card account.
- An employee of a facility convinces a resident to give them money, or property such as land, a vehicle, jewelry, etc.
- An employee of a facility uses the funds in the resident personal trust account for themselves and/or others.

**PATIENT ABUSE**

The Medicaid Fraud Control Unit investigates and prosecutes acts of abuse, neglect or exploitation perpetrated upon any resident in a health care facility that receives federal funding.

The MFCU sometimes receives reports from various State administrative and law enforcement agencies of abuse and neglect in nursing homes and other long-term care facilities. In many cases, abuse can go undetected for a long period of time

because the victim is unable to communicate the abuse to the proper authorities. In addition, the victim is often dependent upon the abuser and may be afraid to complain for fear of reprisals. It is vitally important, therefore, that other persons be aware of the signs of patient abuse or neglect and report those instances to law enforcement agencies.

**There are many things you can do to avoid being a victim of provider fraud:**

- Be aware that not all medical services and products are covered by Medicaid. When receiving services, be sure to ask which services are covered, and which are not. You will be responsible for payment for any non-covered service.
- Read your medical bills; make sure you are only paying for services performed.
- Medicaid recipients aren't usually required to make co-payments.
- Be wary if you are asked to pay for a service covered by Medicaid.

In addition, when a provider performs services or provides products to a Medicaid recipient, the provider has agreed to accept the amount paid by the Medicaid Program as payment in full. Providers are not allowed to bill the Medicaid recipient, or recipient's family for the balance. Medicaid recipients must pay co-pays for some services or goods.

If you have private insurance coverage, be wary every time you see both Medicaid and the insurance company paying for the same procedures. All of these signs, as well as any irregularity in billing, could indicate improper conduct. If you suspect that you are the victim of any fraudulent conduct, contact the Attorney General's Medicaid Fraud Control Unit at 1-888-497-3100 or through the Attorney General's web site at [www.atg.sd.gov](http://www.atg.sd.gov).

## ELDER ABUSE

The Elder Abuse and Financial Exploitation subdivision of the Attorney General's Office consists of an Assistant Attorney General, a DCI Agent, and a DCI Analyst. The subdivision investigates and prosecutes individuals for abuse, neglect, and financial exploitation of vulnerable adults. The subdivision will also assist local law enforcement and State's Attorneys with the investigations and prosecutions of these types of cases.

The subdivision, along with local law enforcement, enforces the law but relies on South Dakotans to make reports of suspected abuse, neglect, or financial exploitation.



The following indicators may be helpful when deciding whether abuse, neglect, or exploitation may be taking place.

### **Physical Abuse**

- Frequent visits to the emergency room and/or hospital or health provider.
- Frequent unexplained injuries or complaints of pain without obvious injury.
- Burns or bruises suggesting the use of instruments, cigarettes, etc.
- Passive, withdrawn, and emotionless behavior.
- Lack of reaction to pain.
- Injuries that appear after the person has not been seen for several days.
- Patient reports physical abuse.

### **Emotional Abuse**

- Witnessing threatening, belittling, or controlling behavior by Caregivers toward individual.
- Behavior from the elder that mimics dementia, such as rocking, sucking, or mumbling to oneself.
- Individual often appears disturbed, scared, hopeless, or with low self-esteem.
- Avoiding eye contact or not talking openly.
- Anxious, shy, depressed, or withdrawn.
- Sudden changes in eating or sleeping patterns or moods.
- Kept inside the house and not allowed to have other people call or visit you.

### **Sexual Abuse**

- Sexually transmitted diseases.
- Injuries to the genital area.
- Difficulty in sitting or walking.
- Fear of being alone with caretakers.
- Patient reports a sexual assault.

### **Neglect**

- Obvious malnutrition.
- Lack of personal cleanliness.
- Injury that has not been cared for properly.
- Poor hygiene.
- Soiled clothing or bed; untreated bed sores.
- Habitually dressed in torn or dirty clothing.
- Obvious fatigue and listlessness.
- Begging for food or water.
- In need of medical or dental care.
- Left unattended for long periods of time.
- Patient reports neglect.

## **Financial Exploitation**

- Changes in spending patterns by the Elder.
- Changes in spending patterns by a friend or relative of the Elder.
- Unusual bank account activity.
- Unpaid bills.
- Items or cash missing from the senior's household.
- Suspicious changes in wills, power of attorney, titles, and policies.

## **REPORTING ABUSE, NEGLECT, & EXPLOITATION**

Abuse, neglect or exploitation of an elder or an adult with disabilities is a crime. Medical service people, social workers, health care professionals, psychologists, mental health professionals, criminal justice employees, law enforcement officers, staff members of nursing and assisted living facilities, staff members of adult day care centers or community support providers, residential care givers, individuals providing homemaker services, victim advocates and hospital personnel are mandatory reporters. If you are a mandatory reporter and know or have reasonable cause to suspect abuse or neglect, then you are required by law to report the abuse or neglect within twenty-four hours. A report of abuse, neglect, or exploitation may be made orally or in writing to the state's attorney, or local law enforcement of the county in which the elder or an adult with disabilities is located, or the Department of Human Services. Some mandated reporters are allowed to report to their supervisor who in turn must report the abuse or neglect. To help protect the elderly population and adults with disabilities, people who are not required by law to report are encouraged to report abuse, neglect or exploitation of elders or an adult with disabilities, by contacting their local law enforcement, State's Attorney, or Department of Human Services.

Any person who, in good faith, makes a report of abuse, neglect, or exploitation of any elder or an adult with disabilities, is immune from any civil or criminal liability that might otherwise be incurred or imposed. That person will receive the same immunity with respect to participation in any judicial proceeding resulting from the report. But immunity does not extend to any person alleged to have committed any act of abuse or neglect of any elder or an adult with disabilities or to any person who has aided and abetted any such act.

If you suspect that someone needs protection, contact your local law enforcement agency, local State's Attorney, or the South Dakota Department of Human Services, Division of Long Term Services and Support by calling **Dakota at Home at 1-833-663-9673** or by email at [DakotaatHome@state.sd.us](mailto:DakotaatHome@state.sd.us). If a person or agency determines that reasonable suspicion exists, the information from those agencies is then forwarded to the Office of Attorney General.



## ESTATE PLANNING

Planning for your future is an important part of growing older. Have you ever thought about what would happen if you suddenly became incapable of making your own health care decisions? Who would make the decisions for you? How would they be made? Estate planning is a way to address these concerns.



Patients who can make their own health care decisions have the right to consent, to reject, and to withdraw consent for medical procedures, treatments or interventions. They may say yes, no, or “I will think about it.” For patients who are incapable, someone else must make these decisions for them. For many patients, this possible loss of control is a concern.

- Should they try to speak in advance for themselves?
- Should they try to designate someone else to speak for them?
- How do they protect and effectively transfer their right to choose to a person whom they know will speak their mind and heart?

If you become incapacitated and do not have a Living Will or a Durable Power of Attorney for financial and health care directives, family can become emotionally frustrated if they do not know the death wishes of the dying family member. Discussing this issue and making a legal document before an unexpected situation occurs can be very beneficial to any family. Death is not an easy topic to discuss, but the actual death of a loved one can be very stressful for the family members that are left behind. Preparing a document like a Living Will or a Durable Power of Attorney may make the grieving process much easier to endure.

## HEALTH CARE CONSENT

Every person has the right to make their own health care decisions, but there might come a time when you or a family member is not capable of making those decisions. Durable powers of attorney for health care and living wills can help plan ahead for these times. In the absence of these tools, South Dakota law authorizes others to make health care decisions for those unable to make their own.

**By law, a person is incapable of giving informed consent if:**

- A guardian has been appointed for the person.
- The court has determined the person to be legally incompetent.
- It has been determined in good faith by the person’s attending physician.

If the attending physician determines a person is incapable of giving informed consent, that determination remains effective until decided otherwise by a physician

or the State. In the absence of a power of attorney or appointed guardian, a health care decision may be made by the incapacitated person's family.

When no family members are available or family members do not agree on the decision to be made, the State can make the health care decisions. The State may also determine who is authorized to make the decision or appoint its own representative to make the decision. Health care consent procedures can be avoided by preparing a durable power of attorney for health care. This option appoints someone in advance to make these decisions.

## DURABLE POWER OF ATTORNEY

A durable power of attorney (POA) enables a person, called the "principal," to appoint an "agent," such as a trusted relative or friend, to handle specific health, legal and financial responsibilities.

### There are two types of durable power of attorney:

- **POA for Healthcare** – Gives a designated person the authority to make health care decisions on behalf of the person.
- **POA for Finances** – Gives a designated person the authority to make legal/ financial decisions on behalf of the person.

Families should prepare these legal documents long before someone starts having trouble handling certain aspects of life. At the time of the signing, the elderly person establishing a POA must be capable of deciding to seek assistance.

When choosing a POA as your agent you need to think carefully about who knows you the best and who is best able to speak for you on financial and health care matters. For many, this will be a spouse or child, but you may name anyone, including a friend. Secondly, you should consider naming a second person to act as an agent in the event that your first choice is unavailable or is unwilling to make the decision.

Once you've chosen an agent, ask if he or she is willing to accept the responsibility of being your POA. If the person you have selected accepts the responsibility, then discuss the various kinds of financial and health care decisions that may have to be made in your future and what your wishes are. What kind of treatment you want or do not want to receive should be clearly stated. Some things you may want to think about are:

- Do I want to be kept alive artificially by a machine?
- Do I want to have a feeding tube?
- Do I want to be resuscitated should my heart stop or should I stop breathing?

Like a trust, a POA can be written so that the transfer of responsibilities occurs immediately. Or, the POA can state that the POA goes into effect when your elderly parent becomes incapacitated. Until that point, the elder can choose to continue to make decisions on his/her own.

The chosen agent has a duty to act in good faith and for your benefit. If the agent does not act accordingly, then possible criminal or civil consequences may exist.

If you choose to create a POA, a lawyer can tailor your document to meet your needs. For a sample of a Durable Power of Attorney please visit the South Dakota State Bar's website at [www.sdbar.org](http://www.sdbar.org) or contact them at 605-224-7554.

## LIVING WILLS

A living will is another tool that allows you to make health care decisions now for those times when you are unable to do so. It is a document that gives instructions to your physician and other healthcare providers the medical treatment you are to receive in the event you are in a terminal condition and are unable to participate in your own medical decisions; such as to the circumstances under which you want life sustaining treatment provided, withheld or withdrawn. It is different from a durable power of attorney for health care because it does not cover anything besides your wishes for life sustaining treatment.



Like the durable power of attorney, living wills should be created by an attorney to ensure your special needs are included. You should also consult with our physician, family, and religious advisor, telling them that you have created and signed a living will. You should also make sure someone knows where to find it. You can choose to amend or revoke a living will at any time.

For samples of a Living Will Declaration please visit the South Dakota State Bar's website at [www.sdbar.org](http://www.sdbar.org).

## GUARDIANSHIP & CONSERVATORSHIP

A guardianship is a legal relationship that gives one or more individuals or agencies the responsibility of the personal affairs of the protected person.

**What is a protected person?** A protected person is someone who has been determined by the court to be either incompetent or incapacitated. Therefore, a protected person to whom a guardian has been appointed has been determined to be unable to make decisions about various personal affairs of his/her life without the assistance or protection of a guardian. These decisions can involve issues relating to the person's health, care, safety, habilitation, therapeutic needs, financial affairs, and other areas of the protected person's life.

**What are the types of guardianships?** Guardianship provides the guardian with decision-making authority and responsibility over the protected person's personal affairs.

**Limited guardianship** gives the guardian decision-making authority and responsibility over only selected areas that the protected person has been determined unable to manage by him/herself; for example, a limited guardianship may only apply to health care decisions.

The court may appoint a **temporary guardianship** for a person for a 90-day period if it is felt that such an appointment is in the person's best interest.

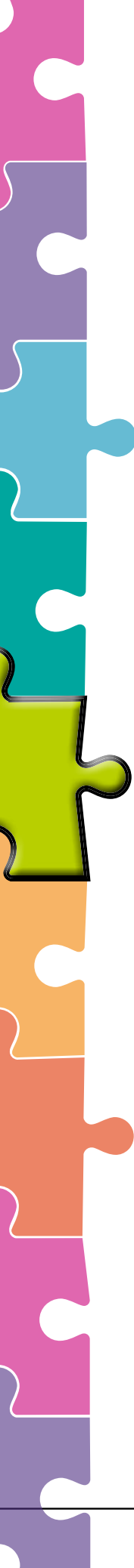
Finally, the court may appoint **joint guardianship**, which is more than one person acting as a protected person's guardian at the same time and sharing in the decision-making authority and responsibilities that accompany guardianship.

**What is a conservatorship?** Conservatorship is similar to guardianship in that it is a legal relationship between a protected person and one or more individuals appointed by the court to make decisions on behalf of the protected person. A conservatorship, however, is limited to the management of the property and financial affairs of a protected person. As with guardianship, a conservatorship may be full, limited, temporary, or joint.

**Who can be a guardian/conservator?** A family member or other interested individual may petition for the appointment of guardian/conservator for a protected person. The interested individual is required to obtain a background check. The Circuit Court Judge decides whether the individual is a suitable guardian and/or conservator.

**What are the duties of a guardian/conservator?** A guardian/conservator must maintain contact with the protected person to become familiar with the protected person's needs and limitations, and only exercise their decision-making authority to the extent required by those limitations. The guardian/conservator must respect the fact that their relationship with the protected person is a confidential one. The guardian/conservator's primary role is to help manage the financial affairs of the protected person. The guardian/conservator must always act in the best interest of the protected person, and never become involved in a situation that might give the appearance of a conflict of interest. The court does require that the guardian/conservator provide information to the court, pertaining to the protected person's finances and personal inventory on an annual basis along with a personal status report.

**What is the potential liability of a guardian/conservator?** A guardian or conservator is not individually liable for the actions of the protected person unless the guardian/conservator was personally negligent. Also, a guardian/conservator is not required to expend his/her own funds on behalf of a protected person. However, a



guardian may be held liable if they have failed in taking reasonable steps to assure that the protected person receives proper care and/or services or have improperly managed the protected person's property or finances.

**What rights does a protected person give up when a guardian/conservator is appointed?** A protected person retains all rights not granted to the guardian/conservator through the appointment by the court. For example, the guardian/conservator does not have the right to change a protected person's state of residence, marital status, parental rights, or power of attorney without the court's specific authorization.

**What is the procedure for the appointment of a guardian/conservator?**

First, a petition for the appointment of guardianship/conservatorship outlining the need for the appointment and the type of appointment requested is filed in the appropriate county. A statement of financial resources and a report from a physician, psychologist, or psychiatrist describing the person's level of impairment, ability to appear at the hearing, and need for protection is also filed. The court then conducts a hearing and determines whether a guardianship /conservatorship is appropriate, and if so, whether a full or limited appointment is most appropriate.

**The decision to seek guardianship or conservatorship of another individual is never a decision to be made lightly. Guardianship and conservatorship places strict limits on the rights of the person for whom the appointment is made.**

For further information regarding guardianship/conservatorship consult with a private attorney or contact the State Bar of South Dakota.

## WILLS

A will is a written document which states how and to whom you wish your property to go after your death. There are certain requirements which must be met for a will made in South Dakota to be considered legal. The law requires that:

- The maker of the will (called the testator) be at least eighteen (18) years old and of sound mind.
- The will must be written. (An oral will may be considered legal only in certain unusual circumstances.)
- The will must be witnessed strictly in accordance with the law. (No witnesses are necessary if the will is dated and if the signature and instructions are in the handwriting of the testator. This is called a holographic will.)

**Changing your will.** A will is in effect until it is changed or revoked. You may do that as often as you wish. You should review your will from time to time. A review of your will every three (3) to five (5) years is recommended as there may be changes in your family circumstances, in the amount and the kind of property you own, and in tax laws which could necessitate changes in your will.



A will you make when you are single is not revoked when you marry, but if you do not provide for your spouse, upon your death, your spouse receives what he or she would have received had you died without a will. All changes in your will, including any change in marital status, require a careful analysis and reconsideration of the provisions of your will to ensure that it reflects your wishes.

Handwritten revisions on a will may not be effective in order to change the will. A will may be changed by re-writing it in its entirety or through a codicil. A codicil is a written amendment which can change a single provision or several provisions in the will, leaving all other provisions of the original will in effect.

**Restrictions.** Although you may dispose of your property in almost any way you wish through your will, there are some restrictions. Married persons may not completely disinherit their surviving spouse, unless their spouse agrees.

Depending on the provisions in the decedent's will for the surviving spouse, the surviving spouse may exercise an option to take an elective share in lieu of the provision made in the will. The amount of the elective share is determined by the length of time the spouse and the decedent were married to each other.

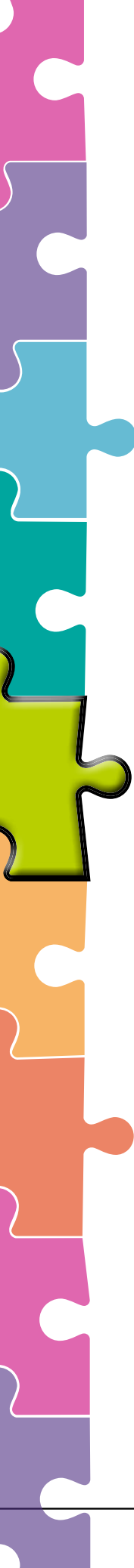
Other provisions in the law provide for benefits to the surviving spouse and the decedent's children. These additional benefits can be explained by your lawyer.

If you have children, you are not required to leave them any portion of your estate. A common misconception is that a person must leave each child at least one dollar. This idea may have evolved from the fact that the failure of a will to make a provision for, or remember, a child results in a presumption that the person making the will merely forgot to include that child. To overcome this presumption, the person making the will in the year's past would leave, "The sum of one dollar to my son, John." Today, an accepted provision is, "I have intentionally failed to provide for my son, John."

**Expenses.** If there is property to be administered or taxes to be paid, the fact that you have a will does not increase probate expenses. A will can, in fact, actually reduce expense.

**What if there is no will?** The property of a person who dies intestate (without a will) is distributed according to a formula set by state law. This is called intestate succession. First, all debts, costs of administration of the estate, and certain other expenses must be paid. If there are minor children who receive property, it may be necessary for a conservator to be appointed by the court to manage and account to the court for the property which the minor child has inherited.

A spouse is to receive the entire intestate estate; unless the decedent was survived by descendants of a prior marriage or other relationship, in which event the spouse receives \$100,000.00 plus half of the remaining estate.



If you elect not to have a will, you must consider that the legislature can change the laws of intestate succession. Therefore, you will not have certainty concerning the way in which your property will be distributed.

**Life Insurance.** Life insurance is not a substitute for a will. Life insurance is a contract between the insured and the insurance company which provides for payment of insurance benefits to beneficiaries which the insured may name. Insurance policies which require payments to minor beneficiaries may require the guardian of those beneficiaries to establish a conservatorship. Life insurance programs should be coordinated with the individual estate plan since a will does not override a specific beneficiary designation. It is to your benefit to have advice from your lawyer and life insurance counselor.

**Drafting your will.** Drafting a will involves decisions which require professional judgments. A lawyer can help you to avoid many pitfalls and advise you concerning your best course of action.

Designating beneficiaries on your insurance or annuity policies and IRA or 401(k) accounts or naming joint tenants with right of survivorship on real estate titles or certificates of deposit, can create unwanted or unequal distributions. Since named beneficiaries and joint owners take outside of the will, your will does not control these distributions.

Competent advice in drafting a will and planning an estate, with the assistance of your attorney, can, in many cases, reduce tax consequences and prevent unforeseen problems in the administration of your estate.

**Ownership of Assets.** Joint tenancy should be distinguished from tenancy in common. Joint tenancy property, upon the death of one of the joint tenants, usually goes to the surviving joint tenant.

Tenancy in common property usually means that each tenant in common owns an undivided interest in the property. Upon the death of one of the tenants in common, that person's property will be distributed to the person named in the will or to the person's heirs under the intestate laws.

Many people have their property owned in joint tenancy. This arrangement is not likely to save either taxes or expenses in the long run. There are instances where joint tenancy is useful, but as in other estate plans, the use of joint tenancy should be coordinated with your general plan of distributing your assets to your heirs. Countless problems can be created by the indiscriminate use of joint tenancy ownership.

Will information provided courtesy of the State Bar of South Dakota.

# TRUSTS

Every adult person should have an estate plan. One way of creating an estate plan is in the form of a living trust.

**What is a living trust?** A living trust, also known as a revocable trust, is an alternative way to own property. You create a living trust during your lifetime by signing a trust agreement which is a legal document that directs how property transferred to the trust will be managed, when and to whom the income and principal from the trust will be paid, and to whom the trust property will be distributed when you die. You are called the settlor, grantor, or trustor of the trust, while the person to whom you transfer your property is called the trustee. The persons who will receive the income during your lifetime or who will receive the trust property after your death, are called the beneficiaries. You may be the settlor, a trustee and a beneficiary, all at the same time. The property in the trust is called the trust principal, corpus, or res. As the settlor, you may change the terms of the trust agreement or may revoke the trust and regain ownership of the trust property.

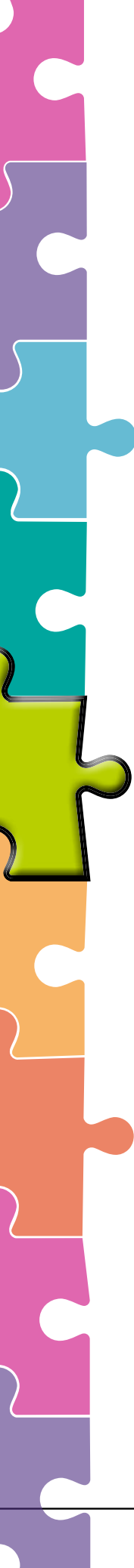
**Whom should I name as trustee?** You may be the only trustee, or you may be a co-trustee. You may name another individual(s), or financial institution with trust powers, as your trustee. You should also provide for a successor trustee to act in the future in the event of your disability or after your death. Anyone you select as a co-trustee or successor trustee should be capable and trustworthy. Family members may or may not be selected by you depending upon your circumstances and their abilities. You should also consider whether a bank can provide services that an individual cannot, but keep in mind that only banks with trust authority can act as trustee.

## **What are the advantages of a living trust?**

- You can have another person or bank which has expertise act as a trustee and make investment or other management decisions for you.
- You can avoid the necessity of having a conservator manage your property if you become incompetent, but only if all of your property is in the trust.
- After your death, the trustee can distribute the trust assets directly to the beneficiaries without probate. This is particularly beneficial if you own real estate in more than one state as it may avoid having to conduct a probate proceeding in each state.
- After your death, the costs and expenses for personal representatives, lawyers, accountants and others may be less.

## **What are the disadvantages of a living trust?**

- It may be more difficult to contest than a will.
- You will undoubtedly spend more time and money in properly creating and transferring your assets to a living trust than you would to have a will prepared.
- To effectively avoid probate, you must keep track of your assets and keep all of your property in the trust, including property acquired after you create the trust.

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- You may experience problems in transferring or selling assets or making purchases with trust checks and encounter banks, transfer agents or others who want to see the trust agreement in order to know that the trustee has certain powers and authority.
  - Upon your disability or death, the management of your trust assets will depend upon the honesty and management ability of your successor trustee who may act without court control or involvement.
  - You may have to pay trustee's fees and expenses if you use a third party as trustee, including the costs of filing an annual trust income tax return.
  - Because a living trust does not require that notice be given to your creditors, a creditor can make a claim against the trust beneficiaries' years after your death.
  - No court determines the validity of the trust as the case with a will.

**Does a living trust save taxes?** The grantor of a revocable living trust retains control of the trust property. Therefore, for federal income tax purposes, as long as you act as the trustee or the co-trustee and the trust uses your social security number for its taxpayer identification number, your living trust will be treated no differently than if you had not created the trust. Likewise, you will not save any death taxes (state or federal) simply because you have created a living trust since you have not irrevocably disposed of the trust assets. Although, a properly prepared living trust can save death taxes, exactly the same savings can be achieved by a will.

**How do I transfer ownership of my property to the trust?** In order to avoid probate, you must transfer the ownership of each and every asset to the trust. To transfer real property, a deed must be signed and recorded; transfer of publicly traded stocks and bonds will likely require the services of a broker; transfer of partnerships and closely held corporations may require the review of the governing instruments to determine whether other partners or stockholders must consent to such transfer; assets without formal legal title such as household contents and farm machinery will require a bill of sale.

**What if I do not transfer all of my property to the trust?** Any property which you do not transfer to the trust will be subject to probate and distribution as set out in your will, or the South Dakota laws providing for distribution of your estate, if you do not have a will. You should have a will to cover any assets that are not transferred to the trust. This may be a "pourover will" which transfers any property which you own at the time of your death to your living trust or a will which has other provisions.

**Can my successor trustee immediately distribute property from the trust after my death?** Generally, No. Your trustee must first pay your debts and expenses resolve any trust problems, file tax returns (income, state estate tax and federal estate tax) and pay any taxes that are due and owing.

**Once I set up a trust, can I change my mind?** Yes. While you are alive and competent, you are in complete control of your trust. You may change or terminate the trust at any time provided the trust document specifically gives you that right.

**Can I use a living trust form or kit that I buy?** You can use a form or kit or even prepare the trust agreement yourself, but your situation may not fit the form, or the form may have been poorly prepared and may lead to adverse tax consequences and conflicts over property distributions. Problems with the form or kits may not surface until years later, sometimes not until after your death when you cannot change the trust and clear up the problem.

**PLEASE NOTE:** Certain persons selling living trust kits have been misleading people into thinking that the property in a living trust is protected from taxes and creditors.

**This is not true!** A living trust will not protect your property from nursing home expenses, hospital bills, or other creditors, nor will the creation of a living trust qualify you for Medicaid. You have taken a lifetime to accumulate your wealth. You should take great care to make certain that your estate plan carries out your wishes without problems. A living trust may or may not be right for you. Competent professional help is essential to make certain that your estate plan meets your specific needs.

Living Trust information provided courtesy of the State Bar of South Dakota.

## PROBATE

Probate is a legal proceeding that transfers your property following your death according to the terms of your will or in the absence of a will, to your heirs based on probate law. The South Dakota Uniform Probate Code was designed to protect the rights of heirs and to assure the orderly collection, preservation and transfer of property.

Having a will undoubtedly simplifies the distribution of your property. A will helps speed the probate process because your wishes are already outlined.

Testate probate proceedings are held for those who have a will upon their death. For those who die without a will, probate law provides a means for distributing the property of the deceased, called an intestate probate proceeding. The court will appoint a personal representative to administer the estate and distribute the property. This person is often a surviving spouse or another beneficiary. Because there is no will, state law will be used to distribute property. Property will usually go to surviving spouses and other heirs.

With either type of probate proceedings, all creditors must be paid from the estate. The probate court also provides for the collection of appropriate state inheritance, federal estate and income taxes. A handful of other taxes must also be paid to the



state before the estate can be closed. Administrative costs, court costs and attorney fees are also paid by the estate. Probate law is complex. When used correctly, it will ensure that the property of the deceased is distributed quickly and fairly. As with all estate planning, contact your lawyer for more details.

## FUNERALS

One of the most expensive purchases many consumers will ever make is the arrangement of a funeral. No one wants to think about death any sooner than they must but planning your funeral services in advance may help reduce stress for your grieving loved ones. A traditional burial, including a casket and vault, is estimated to cost around \$7,000. Extras such as flowers, obituary notices, cards, and limousines can add thousands of dollars more. At such a highly emotional time, many people are easily swayed to believe that their decisions reflect how they feel about the deceased and wind up spending more than necessary.



A preplanned funeral is a way to remove this burden from a spouse or other family members. Making these decisions now about your final arrangements can help assure those left behind that your wishes are being honored.

Most funeral providers are professionals who work to serve their clients' needs and best interests. Unfortunately, some do not. They may take advantage of clients by insisting on unnecessary services, marking up prices and overcharging. That's why there is a federal law, called the Funeral Rule, which regulates the actions of funeral directors, homes and services.

**Avoid emotional overspending.** By communicating exactly which merchandise and services you want, you can keep your family from purchasing unnecessary additions to your services. You have the right to buy separate goods (such as caskets) and services (such as embalming or memorial services). You do not have to accept a package that may include items you do not want.

**Find the value and quality you want.** Considering different funeral homes and cemeteries is an important part of making final arrangements. Comparison shopping allows you to find the value and quality of service that's right for you. Funeral homes must provide you with an itemized statement of the total cost of the funeral goods and services you have selected when you are making the arrangements.

**Lock in today's prices.** If you choose to fund your prearranged funeral plans, you can lock in today's prices for products and services that likely will be more expensive in the future. It is important to work with a funeral professional to understand your

options. Under state law when purchasing a prepaid plan the funeral home is required to deposit at least 85% of the money into a trust. The law also restricts how the trust funds may be invested. The trusts may be revocable or irrevocable. Any contract should be reviewed carefully by your attorney.

- **Revocable Trust** – a type of trust that can be changed at any time. A revocable living trust will become irrevocable upon the trustmakers death.
- **Irrevocable Trust** – a type of trust that typically can't be changed after the agreement has been signed.

Prearranged funeral contracts and trusts, especially irrevocable ones, are not for everyone. Individuals who contemplate a move to a different town or state may find out that the money in the trust cannot be moved prior to death. Asking questions beforehand will help ensure that problems do not arise.

### **SPECIFIC CONSIDERATIONS**

Find out if there are restrictions or requirements the cemetery places on burial vaults, the type of monuments or memorials it allows, and whether flowers or other remembrances may be placed on graves.

Perpetual care on a cemetery plot sometimes is included in the purchase price, but it's important to clarify that point before you buy the site or service.

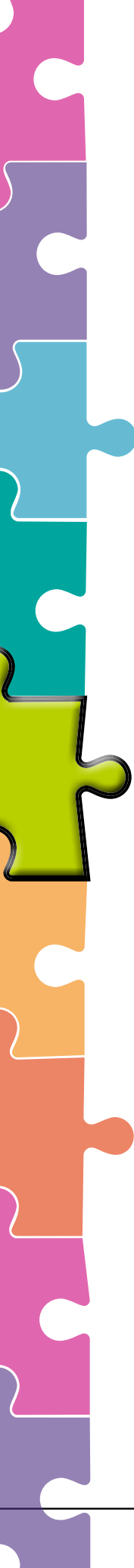
### **CREMATION**

Cremation is becoming more widely used as more service options are being given. Cremation allows flexibility and no longer discards some of the traditional funeral services such as visitation and memorial services, funeral services at a place of worship or other special location, and participation by friends and family. Remains can be placed in an urn or scattered by the family.

### **VETERAN BURIALS**

**State Burial Benefits.** A payment of up to \$100 may be paid by the state to help defray the burial and funeral expenses of any honorably discharged veteran or the wife, widow or widower of a veteran when the estate, or immediate family, of the deceased is lacking in funds to pay the expenses. The veteran must have been a citizen of the United States for one-year preceding entrance into military service or one year preceding the death. This payment CANNOT be made to another unit of government. The surviving spouse, or relatives, must furnish an affidavit to the County or Tribal Veteran Service Officer (C/TVSO) that sufficient funds are not available for payment of the expenses.

Application for the Burial Allowance and a copy of the funeral bill must be submitted to the Pierre office within one year from the date of the burial.



**Federal Burial Benefits.** To be eligible for VA burial benefits, the veteran must have been discharged or released from military service under conditions other than dishonorable. Additionally, the burial and plot allowance entitlements differ according to whether the veteran's death was service connected or non-service connected. The monetary burial benefits that are payable upon the death of an eligible veteran can be provided for any or all three (3) of the following:

**Burial Allowance:** A reimbursement for expenses incurred in the burial of an eligible veteran. The amount of payment is as follows:

- If the death is service connected, the maximum payment is \$2,000.
- If the death is non-service connected, the maximum payment is \$300.
- If death is non-service connected and occurs while hospitalized by the VA at the time of death, the maximum payment is \$780.00 as of October 1, 2018.

If the veterans' death was not service connected, one (1) of the following eligibility requirements must be met. The veteran must have:

- Been in receipt of VA disability pension or compensation at the time of death.
- Been in receipt of military retirement pay in lieu of VA compensation. **OR**
- Had a claim pending with the VA for disability benefits and was subsequently determined to be eligible from a date prior to the date of his or her death. **OR**
- Died while hospitalized by the VA or while on approved travel for VA medical care. **OR**
- Been indigent. (An indigent veteran must have been a veteran of a war or discharged from active duty for a disability incurred or aggravated in the line of duty.)

**Plot/Interment Allowance:** A reimbursement of plot or interment expenses to a maximum of \$700. The plot allowance is **not** payable when burial is in a national cemetery. To qualify for the plot, allowance the veteran must have:

- Met any of the above basic eligibility requirements for the burial allowance, **OR**
- Been discharged from active duty for a disability incurred or aggravated in the line of duty.

**Transportation Costs:** The actual amount of payment is based on a "reasonable charge" for transportation service from the place of death to place of burial. The VA may pay a transportation allowance if one (1) of the following requirements is met:

- The veteran died under VA medical care or on authorized travel for such care, **OR**
- The deceased veteran is to be buried in a national cemetery and he or she died of a service-connected condition or, at the time of death, had a compensable service-connected disability.

**National Cemeteries.** Veterans who were discharged under conditions other than dishonorable and, members of the Armed Forces who die while on active duty, are eligible for burial in a National Cemetery. Those who first entered active duty after

September 7, 1980, must meet the minimum active duty requirement which states that the veteran must have completed at least:

- 24 months of active duty, **OR**
- The full period for which “called” or ordered to active duty.

**National Guard or Reserve members may be eligible if they meet one (1) of the following criteria:**

- Was eligible for military retirement pay based on service in the Selected Reserve.
- Was disabled or died from a disease or injury incurred or aggravated in the line of duty while on active or inactive duty for training.
- Died while hospitalized or undergoing treatment at VA expense for an injury or disease contracted or incurred while performing active duty for training, or inactive duty for training, or while hospitalized by the government for that treatment.

A veteran’s spouse and certain dependent children may also be eligible for burial in a national cemetery.

**Headstones and Markers.** Both veterans and deceased members of the Armed Forces are entitled to a Government headstone or marker regardless of the place of burial. The basic requirements are:

- The veteran’s service could have been either during peacetime or wartime.
- The veteran’s discharge must have been under conditions other than dishonorable.
- If the deceased was serving in the US Armed Forces at the time of death, his or her service must have been under honorable conditions.
- If the veteran’s active duty began after September 7, 1980, the minimum active duty service requirement must be met.

**National Guard or Reserve members must meet one (1) of the following criteria:**

- Was eligible for military retirement pay based on service in the Selected Reserve.
- Was disabled or died from a disease or injury incurred or aggravated in the line of duty while on active or inactive duty for training.
- Died while hospitalized or undergoing treatment at VA expense for an injury or disease contracted or incurred while performing active duty for training, or inactive duty for training, or while hospitalized by the government for that treatment.

For further information regarding VA burial benefits contact the **SD Department of Veterans Affairs, 1-877-579-0015** (In-State Only) or **605-773-3269** or [www.vetaffairs.sd.gov](http://www.vetaffairs.sd.gov).

## CEMETERIES

Many people view the selection of a final resting place as an important personal decision and choose a cemetery and reserve a burial plot for themselves well in advance of any need. Others leave the decision to family members.

There are four main types of cemeteries – Public, Religious, District or Municipal, and National or Veteran’s Cemetery. Before making your choice understand the cemeteries rules, most cemeteries specify sizes and types of monuments that can be placed, some will specify what flowers or trees (if any) can be planted, and some rules specify how long the cemetery waits before clearing away items left.

Other consideration to think about:

- Note the appearance of the cemetery.
- Are buildings, landscaping, and walls well-maintained?
- Request a written price list. Unlike funeral homes, cemeteries are not required to prepare price lists, but they should be willing to provide costs.
- Determine whether sites you are considering for two bodies are side by side or a double depth.
- Ask whether you can bury cremated remains in the plot.
- Read the cemetery rules and regulations to learn about any restrictions or additional costs, specifically regarding installation, care, and maintenance of the memorial.
- Be aware that a cemetery’s fees for perpetual care do not always include maintenance of monuments and markers - Make sure you understand exactly what’s included. Perpetual care cemeteries have rules pertaining to safeguarding your funds, have them explain how this works.
- Make sure you know how the cemetery will safeguard your prepayments.

## HEARING AIDS

Hearing aids and batteries can be very expensive. To prevent a costly hearing aid mistake, make sure your hearing loss has been properly diagnosed. Your doctor may refer you to a hearing health professional for an examination and evaluation. It may be an otolaryngologist, an audiologist, or a hearing aid dispenser. Only two types of people are authorized to measure hearing loss and fit and dispense hearing aids in the U.S. - an audiologist and a hearing aid dispenser. Before you buy any product to enhance your hearing, it’s important to understand the various types of hearing loss, the differences between a hearing aid and a personal sound amplification device, and what to consider when you’re shopping so you get the product that’s most appropriate for your particular kind of hearing loss.

A **hearing aid** is a small electronic device worn in or behind the ear. The device has three parts: a microphone, an amplifier, and a speaker. It receives sound through the microphone, which converts the sound to electrical signals and sends them to the amplifier. The amplifier increases the power of the signals and sends them to the ear through the speaker. The device doesn’t work unless you have some ability to hear.



A **personal sound amplification product (PSAP)** is a device used by people with normal hearing to amplify hard-to-hear sounds. For example, if you are sitting at the back of a lecture hall, eating in a crowded restaurant, or bird-watching, a PSAP may be helpful. If your hearing is impaired, don't use a PSAP as a substitute for a hearing aid. That may delay the diagnosis of a potentially treatable condition and cause more damage to your hearing.

### **Purchase Agreement**

The purchase agreement for a hearing aid should include details about the trial period, the warranty, the total price, and whether a loaner hearing aid will be available during servicing or repair. People who can't afford a hearing aid should contact the National Institute on Deafness and Other Communication Disorders Information Clearinghouse to find out about organizations that offer financial assistance.

In South Dakota, any purchaser of a hearing aid is entitled to a refund of the full purchase price less 10% within thirty (30) days from the date of delivery unless set by contract for more than thirty (30) days. (SDCL 36-24-33)

You can obtain a list of licensed hearing aid dispensers by contacting the State Board of Hearing Aid Dispensers and Audiologists at 605-642-1600 or by visiting their website at <https://doh.sd.gov/boards/audiology/>

## **MEDICAL QUACKERY**

You've seen miracle claims for products related to health. It's no wonder people spend billions of dollars a year on fraudulently marketed health-related products and treatments that not only are unproven and often useless, but sometimes also are dangerous.

Health fraud trades on false hope. It promises quick cures and easy solutions for a variety of problems, from obesity and arthritis to cancer and AIDS. But the "cures" don't deliver. Instead, people who buy them are cheated out of their money, their time, and even their health. Fraudulently marketed health products can have dangerous interactions with medicines people are already taking and can keep them from getting a proper diagnosis and treatment from their own health care professional. Many unapproved treatments are expensive, too, and rarely are covered by health insurance.



**Miracle cure.** Alarms should go off when you see this claim or others like it such as, "new discovery," "scientific breakthrough" or "secret ingredient." If a real cure for a serious disease were discovered, it would be widely reported through the media and prescribed by health professionals—not buried in print ads, TV infomercials or on Internet sites.

**All natural.** Some plants found in nature (such as poisonous mushrooms) can kill when consumed. Moreover, FDA has found numerous products promoted as “all natural” but that contain hidden and dangerously high doses of prescription drug ingredients or even untested active artificial ingredients.

**Weight Loss.** Ads that promise “quick and easy” weight loss without diet or exercise are almost always false. Often, attractive people or celebrities are used to sell the products. At best fad diets and products might result in a temporary weight loss in the short term and can be dangerous if followed over a longer period.

**Anti-aging scams.** Despite claims about pills or treatments that lead to endless youth, no treatment has been proven to slow or reverse the aging process.

**Free Trial Offers.** A chance to try something out for free? What have you got to lose? Plenty! Do your homework before taking advantage of any “FREE Trial Offer” as you may ultimately be enrolling yourself in a **buying club**.

- Look for catches in the terms and condition section.
- Watch for pre-checked boxes.
- Mark your calendar so you know when you need to cancel the order.
- Look for details on how you can cancel future shipments or services.
- And always check your credit card to make sure you weren’t charged for something you didn’t agree to.

**Here are some tips regarding possible medical quackery:**

- If it looks too good to be true—it probably is.
- Be very careful about offers for medicines, supplements or other treatments: always seek the advice of your health care professional.
- Only give out your personal details and information where it is necessary and where you have initiated the contact and trust the other party.
- ALWAYS get independent advice if an offer involves significant money, time or commitment.
- Read all the terms and conditions of any offer very carefully: claims of free or very cheap offers often have hidden costs.

## TELEMARKETING SOLICITATIONS

Just about everyone who owns a telephone has received calls promoting products, services, investment opportunities, or contests. Although there are legitimate telephone offers, telemarketing fraud cost consumers billions of dollars a year. Federal and State rules and common sense can protect you from telephone scams and overly intrusive sales calls.



Under the Federal Trade Commission's Telemarketing Sales Rule (TSR), telemarketers may call only between 8 am and 9 pm. They must tell you immediately who they are and what they are selling, before they make their pitch.

Before you pay anything, a telemarketer must tell you the following:

- The total cost of the products or services offered.
- Any restrictions on getting or using them.
- Whether a sale is final or nonrefundable.
- Telemarketer may never withdraw money from your checking account or credit card without your express, verifiable authorization (i.e. **signed contract**).
- Cannot misrepresent information about whatever they are selling, including prize-promotion schemes.
- Its against the law to ask for payment with:
  - a. cash-to-cash money transfer (ie Western Union or MoneyGram)
  - b. "reloadable" cash cards – money loaded onto a prepaid debit card (MoneyPak, Vanilla Reload, etc)

Telephone scam artists may cold-call individuals listed in a directory or on a mailing list. In more elaborate schemes, advertisements or direct mail pieces invite you to call a certain phone number to claim a prize or to make a purchase. Be skeptical of any deal that sounds too good to be true, and make sure sellers are trustworthy before you hand them your money.

## **WHAT DOES THE TSR DO FOR ME?**

### **Restricts unauthorized billing**

Before they submit your billing information for payment, telemarketers must get your express informed consent to be charged — and to charge a specific account. If a telemarketer has your account information before the call — known as "preacquired account telemarketing" — and offers you goods or services on a free trial basis before charging you automatically, the telemarketer must:

- Get your permission to use a particular account number.
- Ask you to confirm your desire to approve a charge by giving the telemarketer at least the last four digits of the account number.
- Create an audio recording of the entire phone transaction.

### **Reduces abandoned calls**

Telemarketers are required to connect their call to a sales representative within two seconds of the consumer's greeting. This will reduce the number of "dead air" or hang-up calls you get from telemarketers. These calls happen when telemarketers use automatic dialing equipment that reaches many numbers and staff aren't available to answer all the calls. When that happens, a recorded message must play to let you know who's calling and the number they're calling from. The law prohibits a recorded sales pitch in a cold call. To give you time to answer the phone, the telemarketer may not hang up on an unanswered call before 15 seconds or four rings.

## Requires caller ID transmission

Telemarketers must transmit their telephone number and, if possible, their name, to your caller ID service. This protects your privacy, increases accountability on the telemarketer's part and helps in law enforcement efforts.

## Here are some ways to avoid being victimized by telephone fraud:

- Resist high-pressure sales tactics. Legitimate businesses respect the fact that you are not interested.
- Do not send money (cash, check, money order, or gift cards) to anyone who insists on immediate payment.
- Keep information about your bank accounts and credit cards to yourself unless you know with whom you are dealing.
- Hang up if you are asked to pay for a prize. **Free is Free.**

## THE NATIONAL DO NOT CALL REGISTRY

The National Do Not Call Registry (DNC) is managed by the FTC and is a part of the TSR. The DNC is designed to stop sales calls from real companies that follow the law. The Registry is a list that tells telemarketers what numbers not to call. Even though the Registry can't stop all of the unwanted calls you're getting, being on the Registry could make it easier for you to spot scam calls.

You can register your home and/or mobile phone number online at the National Do Not Call Registry ([www.donotcall.gov](http://www.donotcall.gov)), or call toll-free 1-888-382-1222 (TTY 1-866-290-4236). You must call from the number you wish to register. Registration is free and is effective for life.

If you do not want to put your number on the National Do Not Call Registry, you can still prohibit individual telemarketers from calling by asking them to put you on their own do not call list.

## The National Do Not Call Registry does not block calls from the following sources:

- Political organizations.
- Charities (If a charity or a third-party telemarketer is calling on behalf of a specific charity, you can ask not to receive any more calls from, or on behalf of, that specific charity).
- Telephone surveys.
- Companies with which you have an existing business relationship. Once you purchase something from a company, that company may call you for up to eighteen (18) months after your last purchase or delivery from it, or your last payment to it, unless you ask the company not to call again. In that case, the



company must honor your request not to call. Similarly, if you make an inquiry to the company, or submit an application to it, the company can call you for three (3) months after the inquiry or application. If you make a specific request to that company not to call you, then the company may not call you, even if you have an established business.

### **Filing a Do Not Call Complaint**

If your number has been on the Registry for at least thirty-one (31) days and you receive a call from a telemarketer that you believe is covered by the Registry, you can file a complaint with the National Do Not Call Registry, or by calling the registry's toll-free number at 1-888-382-1222 (for TTY, call 1-866-290-4236). To file a complaint, you must know either the name or telephone number of the company that called you, and the date the company called you.

### **ROBOCALLS**

Annoying is one word for these calls. Why do these scammers continue to call and call? It's cheap and it's easy for scammers and telemarketers to make robocalls over the internet from anywhere in the world.

**What is a Robocall?** If you answer the phone and hear a recorded message instead of a live person, it's a robocall. A robocall **trying to sell you something is illegal** unless a company has your **written** permission to call you that way.

What types of Robocalls are legal?

- **Messages that are purely informational.** Robocalls about your flight being cancelled, reminding you about an appointment, or letting you know about a delayed school opening fall into this category, as long as the caller doesn't also try to sell you something.
- **Debt collection calls.** A business contacting you to collect a debt can use robocalls to reach you. But robocalls that try to sell you services to reduce your debt are illegal and are almost certainly scams.
- **Political calls.**
- **Calls from some health care providers.** This includes a robocall from a pharmacy reminding you to refill a prescription.
- **Messages from charities.** Charities can make these calls themselves. But if a charity hires someone to make robocalls on its behalf, the robocalls can only go to members of the charity or prior donors. They also must include an automated option to let you stop future calls.

### **How can I know if a robocall is a scam?**

If someone is already breaking the law by robocalling you without permission, there's a good chance it's a scam. At the very least, it's a company you don't want to do business with. Don't rely on your caller ID. Scammers can fake the name and number that shows up, making it look like a call is from a government agency like the Social Security Administration or a local number. That's called spoofing.



## What should I do if I get an illegal robocall?

- **Hang up.** Don't press any numbers. The recording might say that pressing a number will let you speak to a live operator or remove you from their call list, but it might lead to more robocalls instead.
- **Consider protecting yourself with technology like a call blocking app or device.** You also can ask your phone provider if it has call-blocking tools.
- **Report the call** to the FTC at [www.donotcall.gov](http://www.donotcall.gov). Report the number on your caller ID and any number you're told to call back, which helps track down the scammers behind the call. Even if you think the number on your caller ID is fake, report it. The FTC analyzes complaint data and trends to identify illegal callers based on calling patterns.

## MAIL ORDER

Shopping by phone or mail is a convenient alternative to shopping at a store. The Federal Trade Commission's (FTC) Mail or Telephone Order Rule covers merchandise you order by mail, telephone, computer, and fax machine. It does not matter how the merchandise is advertised, how the customer pays, or who initiates the contact. The FTC's Mail or Telephone Order Merchandise Rule requires merchants to ship mail-order merchandise within 30 days of receiving a completed order unless a longer time is clearly specified in advertisements or catalog listings.



If, after placing your order, the company finds out they cannot ship within the time you stated or within thirty (30) days, the company must seek your consent to the delayed shipment. If the company cannot obtain your consent to the delay the company must, without being asked, promptly refund all the money you paid for the unshipped merchandise.

**PLEASE NOTE:** There is one exception to the 30-day rule. If a company doesn't promise a shipping time, and you are applying for credit to pay for your purchase, the company has fifty (50) days to ship after receiving your order.

Remember that these requirements also apply to telephone orders, including sales where a computer, fax machine or similar means are used to transmit orders over a telephone line. Many mail-order companies provide telephone numbers, including toll-free "800/888" or fax numbers, to make purchasing easier.



## Things to remember when making mail/telephone-order purchases:

- Before ordering by phone or mail, consider your experience with the company or its general reputation. Determine the company's refund/return policies, the product's availability, and the total cost of your order.
- Order early to allow plenty of time for shipment and delivery.
- Keep a copy of the company's name, address, phone number, the date of your order. In addition, keep the ad or catalog from which you ordered, the order form you sent to the company, and a cancelled check or charge account record.

## MAIL, INTERNET, OR TELEPHONE ORDER MERCHANDISE RULE

According to the rule adopted by the Federal Trade Commission in 1975:

- You must receive the merchandise when the seller says you will. If you are not promised a delivery within a certain time period, the seller must ship your merchandise within 30 days upon receipt of your order.
- You have the right to cancel your order if the seller can't ship your order in the state time or within the thirty (30) days. The seller must tell you if the promised delivery date cannot be met, and what the new shipping date will be. The seller must give you the option to either cancel the order for a full refund or agree to the new shipping date. The seller also must provide a free way to reply, such as a postage prepaid card, toll-free number, or website.
- If you don't respond to the Notice of Revised Shipment the order should be cancelled.
  - If the customer paid by cash, check, money order, or any other method other than a credit card, the seller must refund the correct amount within seven (7) working days after the order is cancelled.
  - If you paid by credit card the account must be credited within one (1) billing cycle after the order is cancelled.
- The Rule does not cover – magazine subscriptions, sales of seeds and growing plants, C.O.D, and mail order photo-finishing.

## JUNK MAIL & OPT-OUT

Our economy generates an enormous amount of data. Most users of that information are from honest businesses getting and giving legitimate information. Despite the benefits of the information age, some consumers may want to limit the amount of personal information they share.

Junk mail and telemarketing calls are often results of consumers providing their name, address, phone number and other personal information, which causes their names to be placed on calling and mailing lists.





**The following events often result in junk mail and telemarketing calls:**

- Filling out warranty and product registration cards.
- Joining or donating money to clubs, organizations, and/or charities.
- Subscribing to magazines, book clubs and music/CD clubs.
- Listing your phone number and address in the phone book. Omit your address or be unlisted.
- Avoid entering sweepstakes and other contests if you want to stay off mailing and telemarketing lists aimed at “opportunity seekers,” often called “sucker lists.” The purpose of contests is to compile names and addresses that can be sold to marketers for other solicitations, such as fundraising or catalog offers. Some contests and special offers are scams, especially those that ask you for money up front or which offer get-rich-quick schemes. Remember, many prize promotions or drawings are geared to gather your personal information. Often times, you are giving them permission to call or solicit you in the future.

**Marketing Opt-Out.** Many organizations are offering consumers choices about how their personal information is used. For example, many feature an “opt-out” choice that limits the information shared with others or used for promotional purposes. When you “opt-out,” you may cut down on the number of unsolicited telemarketing calls, promotional mail and spam emails that you receive. Look for ways to “opt-out” of mailing lists to reduce “junk” mail and unauthorized solicitations. Many mail order forms, magazines, and marketers now provide a box to check if you do not want your name(s), address and shopping habits to be shared with other companies.

**Financial Privacy Opt-Out.** Federal privacy laws give you the right to stop (opt-out of) some sharing of your personal financial information. These laws balance your right to privacy with the financial companies’ need to provide information for normal business purposes.

**Protect Your Financial Privacy.** To protect your financial privacy, tell your financial companies that they may not sell or share your customer data with other companies. Federal law requires banks, credit card companies, insurance companies, and brokerage firms to send you a privacy notice each year. If you opt-out, you limit the extent to which the company can provide your personal information to non-affiliates. If you do not opt-out within a “reasonable period of time,” generally about thirty (30) days after the company mails the notice, then the company is free to share certain personal financial information. If you didn’t opt-out the first time you received a privacy notice from a financial company, it’s not too late. You can always change your mind and opt-out of certain information sharing. Contact your financial company and ask for instructions on how to opt-out. Remember, however, that any personal financial information that was shared before you opted-out cannot be retrieved. Pay attention to the mail you receive from your bank, insurance company, credit card company, and brokerage firm. Look for words such as “Privacy Notice,” “Privacy Policy” or “Opt-Out Notice.” You might receive such notices via e-mail or the company’s website if that is the way you normally do business with them.

## DIRECT MARKETERS

If you shop direct - by mail, online, telephone or home shopping TV shows - chances are the companies you are ordering could be members of the Direct Marketing Association (DMA).

DMA offers the right to Opt-Out of direct marketing mailings and emails by visiting [www.dmachoice.org](http://www.dmachoice.org). DMAchoice™ is an online tool developed by the DMA to help you manage your mail/emails. This site is part of a larger program designed to respond to consumers' concerns over the amount of mail they receive.

You can request to start or stop receiving mail from individual companies within each category—or from an entire category at once. When you register with these services, your name will be put on a “delete” file that is updated throughout the year and made available to the direct-mail marketers. DMAchoice™ divides direct mails into four categories (credit cards, catalogs, magazine orders, other mail offers), to cut back on mailings you are not interested in. Two to three months after signing up for these services, you should notice a decrease in the number of solicitations you receive. However, your registration will not stop mailings from organizations NOT registered with the DMA.

To sign up for these services online, go to [www.dmachoice.org](http://www.dmachoice.org) for a processing fee of \$2 for a period of ten (10) years. Registering for these mail preference services through the site is the fastest and easiest way to create an account. DMAchoice offers consumers a simple, step-by-step process that enables them to decide what mail they do and do not want such as the following:

- **eMail Preference Service** (reduce your unsolicited commercial email).
- **Deceased Do Not Contact list** (for name removal of deceased individuals' names).
- **Do Not Contact list for Caregivers** (allows caregivers to register name removal on behalf of those individuals for whom they care for).

If you would rather send your information by mail, you can download a form on the website, print it, and send it along with a check for \$3 (three dollars) payable to the DMA. You can find the registration form at [https://dmachoice.thedma.org/prefill\\_mailin\\_registration.php](https://dmachoice.thedma.org/prefill_mailin_registration.php) Do not send cash. Your name will remain on DMAchoice for ten (10) years. Mail request to:

**DMAchoice**  
**Direct Marketing Association**  
**PO Box 900**  
**Cos Cob CT 06807**

## MAGAZINE SALES

Magazine sales solicitation can come in several forms. Telephone, Door-to-Door, and Mail solicitations are the most common. Magazine solicitations from these types of sales usually get processed through a “Magazine Warehouse” and can cost considerably more money than ordering directly from the publisher of the magazine. Unfortunately, consumer names get on “Mailing Lists” that magazine warehouses obtain in an effort to solicit new subscribers. Keep in mind, if you did not order the subscription or renewal and you don’t want it, you are under no obligation to pay.

### **Telephone Solicitation**

Magazine warehouses may contact you with a telephone call. They tend to make their sales through special offers of reduced rates or free years of subscription. These calls will be recorded, and they will verify the transaction with the consumer saying “Yes”. South Dakota law requires these types of transactions to be verified with a written contract. The magazine warehouse is to send the consumer a contract specifying what the consumer is going to receive, the amount of the monthly or one-time payment will be, and the duration of the subscription. A verbal confirmation is not a binding contract.

### **Door-to-Door Solicitation**

Various groups and organizations may use magazines sales for fund raisers or may claim that you can make a subscription order that will be given to someone else as a gift. These orders are then processed through a magazine warehouse. If you choose to purchase a subscription from a Door-to-Door salesperson, do not pay with cash, and make checks payable to the company and not to the salesperson. Please refer to the **Door-to-Door Sales** section of this handbook for the explanation of your rights.

### **Mail Solicitation**

Some magazine warehouses will send out “Renewal Notices” to consumers that state a subscription is about to run out. These notices may have statements that this is your “Final Notice” and will show “Amount Due.” If you do have a subscription to a magazine, verify that this is the company that the original order was placed with. This tactic is usually used to get new subscribers, and not as a renewal.

### **Here are some tips to go by when placing magazine orders:**

- Order directly from the magazine company that publishes the magazine. Buy the magazine from the newsstand and use the subscription card located inside the magazine. The order form will also let you know if you are getting the best price available for that magazine.
- Make a note of when you placed the magazine order and when it is due to expire. This prevents another company from trying to extend or renew a subscription that is already in place.



- Make sure that you know exactly what you are agreeing to prior to agreeing to anything over the phone. Request any offers to be put into writing prior to agreeing to the purchase.

## UNORDERED MERCHANDISE

What do you do when you receive merchandise that you didn't order? According to the Federal Trade Commission, you don't have to pay for it. Federal laws prohibit mailing unordered merchandise to consumers and then demanding payment. The exception is if there is evidence of obvious misdelivery or if it was offered in good faith as a substitute for the merchandise ordered.

### **Am I obligated to return or pay for merchandise I never ordered?**

No. If you receive merchandise that you didn't order, you have a legal right to keep it as a free gift.

### **Must I notify the seller if I keep unordered merchandise without paying for it?**

Although you have no legal obligation to notify the seller, you may write the seller and offer to return the merchandise, provided the seller pays for shipping and handling.

### **Is there any merchandise that may be sent legally without my consent?**

Yes. You may receive samples that are clearly marked free, and merchandise from charitable organizations asking for contributions. You may keep such shipments as free gifts.


### **Is there any way to protect myself from shippers of unordered merchandise?**

When you participate in sweepstakes or order goods advertised as "free," "trial," or "unusually low priced," be cautious. Read all the fine print to determine if you are joining a "club," with regular purchasing or notification obligations. Keep a copy of the advertisement or catalog that led you to place the order, too. This may make it easier to contact the company if a problem arises.

## GIFT CARDS & GIFT CERTIFICATES

Gift card or certificates, whether purchased from a retailer, a restaurant, or financial institution may come with strings attached. Here are some facts to keep you informed.

A **Gift Card** is a preloaded debit card that allows the cardholder to use it for the purchase of goods or services. Some gift cards can only be used at select retailers, but some can be used anywhere that accepts major credit cards. Some gift cards may also be reloadable, which provides the cardholder with the ability to add funds to the card and continue using it.



A **Gift Certificate** is a piece of paper that is worth a certain amount of money and is given to someone to be used like money to pay for things, such as the products or services of a particular business.

The different kinds of cards:

- **Store gift cards.** Branded by a single merchant or group of merchants and can only be used at those stores.
- **Network branded gift cards.** These will have a logo like American Express, Discover, MasterCard, or Visa and can be used wherever the network credit cards are used. They are reloadable, which means the recipient can add more money to them when they run out.
- **Reloadable prepaid cards.** You can use these cards the same way you'd use reloadable gift cards, but the rules that cover these cards are not the same. If it isn't sold as a gift card, then the federal rules that cover gift cards don't apply. For example, for such cards, the card issuer might immediately start charging fees, such as monthly service fees.

#### EXAMPLE:

**Question:** I received a card as a gift from my children last Christmas and just haven't gotten around to using it until recently. When I went to make the purchase, I had way less available credit than what was given to me. What happened!?

**Answer:** The value of the gift card you buy or receive today could evaporate by \$2.50 or more every month that the card sits unused in a wallet or pocketbook. This is also known as "dormancy fee." Dormancy fees cannot be imposed unless the card has been unused for at least 12 months. Only one such fee could be charged per month, and the issuer's policy on dormancy fees must be clearly disclosed.

**Question:** I've had a gift card for more than several months now and I went to check my balance for the 2<sup>nd</sup> time since I received the card and an automatic fee was deducted from my card for just checking the balance. How can they do that if all I wanted was my balance on the card?

**Answer:** This is known as a balance-checking fee and should be listed in your terms and conditions of the card. Typically the first call you make to check your balance is free, subsequent calls thereafter a fee will be deducted from your card automatically.

If you are giving the card as a gift, give the recipient the terms and conditions and receipt so they have all pertinent information should they encounter problems with the card. The terms and conditions are sometimes included in the original packaging. Also, before purchasing the card consider the financial condition of the business offering the card. For example, if you give a store gift card and the retailer goes out of business, the card may not be redeemable. Also, if locations near your recipient close, the card may be harder to use.

If a gift card or gift certificate contains an expiration date or if it has dormancy fees or other fees associated with it and has not been redeemed **within three (3) years**, the holder is required to file an electronic report to the South Dakota Unclaimed Property Fund, a Division under the South Dakota State Treasurer's Office regarding the unclaimed or abandoned property. They can be reached at 1-866-357-2547 (in-state only), 605-773-3379 or visit [www.sdtreasurer.gov/unclaimedproperty](http://www.sdtreasurer.gov/unclaimedproperty). If a prepaid gift card or gift certificate does not contain an expiration date and has no fees associated with them, they would be exempt from the unclaimed property law.

**PLEASE NOTE:** Gift cards are for gifts, **not** payments. Anyone who demands payment by gift card is always a scammer.



## RAIN CHECKS

Stores are required to offer rain checks, unless the advertisement clearly states that “quantities are limited,” or unless the store can establish that advertised items were ordered in time for delivery and were in sufficient quantities to meet the public’s reasonably anticipated demand. A rain check will allow you to purchase the desired item at a later time at the reduced price. Instead of a rain check, stores are permitted to offer a substitute item of comparable value to the sale item at the sale price. The store may also offer some form of compensation that is at least equal in value to the advertised item.

If you cannot find an advertised product on the merchant’s shelf, ask for it. If the store has run out, you should ask for a rain check, a substitute or other equivalent compensation. In most cases, retailers will provide you with one of these options.

If you know that a particular store routinely runs out of advertised specials without stating the quantities are limited, and does not provide you with a rain check, as substitute item or some other equivalent compensation contact the Federal Trade Commission. Some exceptions to this rule would be products that are not delivered at the time of purchase such as appliances and furniture.

## RESTOCKING FEES & RETURNING ITEMS

You make a purchase from a store only to get home and find the product will not work for you, you go back to the store to return it only to find that you will be charged a 25% restocking fee! You are upset and frustrated when you find out that seller can do this. Consumers should review a stores return policy, especially if you are purchasing large ticket items such as electronics or if you purchase items to be given to someone as a gift. Ask the following:

- Are there restocking fees?
- How many days do I have to make a return?
- Do I have to have my receipt to return an item?

## TRAVEL

Whether reserving a hotel room, buying plane tickets or making other travel arrangements, following these tips will help to ensure you get exactly what you planned for:

- **Plan as far ahead as you can.** Special deals on hotel rooms and airline seats often sell out very quickly.
- **Be flexible in your travel plans.** Hotels usually offer better rates on days when they expect fewer guests. Once you get a fare quote from an airline, ask if you could save money by leaving a day earlier or later, by taking a different flight on the same day, or using a different airport. Changing planes during your trip is sometimes cheaper than a nonstop flight.
- **Check out the seller.** Ask tour operators and travel agents whether they belong to a professional association, then check to see if they are members in good standing. Read the reviews!
- **Review all the photos.** If a listing only has one or two photos, you should proceed with caution.
- **Make sure you understand the terms of the deal.** If you're told that you've won a free vacation, ask if you have to buy something else in order to get it. If the destination is a beach resort, ask the seller how far the hotel is from the beach. Then ask the hotel.
- **Ask about cancellation policies.** You may want to look into trip insurance for added protection. There are websites that offer pricing and policy information on plans from different companies and describe the different forms of policies available.
- **Insist on written confirmations.** Ask for written proof of reservations and dates.
- **Pay by credit card.** It's not unusual to make a deposit or even pay in full for travel services before the trip. A credit card gives you the right to dispute charges for services that were misrepresented or never delivered. If a travel agent or service provider tells you that you can't leave for at least two months, be very cautious - the deadline for disputing a credit card charge is sixty (60) days and most scam artists know this.
- Contact the Attorney General's Consumer Protection Division at 1-800-300-1986 to find out their complaint history.



### TELL-TALE SIGNS OF A TRAVEL SCAM

- If you are offered a travel deal by email, it's almost certainly a scam. Just about all bulk email travel deals (or free vacations) are scams.
- "If it sounds too good to be true..." Wouldn't we all love to believe that we just won an all-expenses-paid trip to the Bahamas or a weekend at Disneyland?" Listen for the details – or read the "fine print."

- Never give your credit card number over the phone unless you made the phone call and you know that you're dealing with a reputable company. You should never have to disclose any other personal details, like your checking account or social security number.
- If you think you are interested in the offer, always ask what's NOT included: "service charges," "processing fees," and taxes are typically added on after the fact -- and you'll be expected to pay for them. Ask for specific details. Many travel scams are based on really vague information, for example, they'll use phrases like "major airline" without naming an actual airline.
- Never dial a 900 number to reach a travel agency or club. No legitimate company requires you to pay for a 900 call to phone their customer service desk. Also, beware of calling numbers with 809, 876, 758, or 664 area codes. Many phone numbers seem ordinary but are actually similar to unregulated 900 numbers located in the Caribbean – and you could be charged exorbitant per minute rates.

### **TIMESHARES AND VACATION PLANS**


The thought of owning a vacation home may sound appealing, but the year-round responsibility and expenses that come with it may not. Buying a timeshare or vacation plan may be an alternative. If you're thinking about opting for a timeshare or vacation plan, it's a good idea to do some homework. If you're not careful, you could end up having a hard time selling your timeshare.

**The Basics of Buying a Timeshare.** Two basic vacation ownership options are available: timeshares and vacation interval plans. The value of these options is in their use as vacation destinations, not as investments. Because so many timeshares and vacation interval plans are available, the resale value of yours is likely to be a good deal lower than what you paid. Both a timeshare and a vacation interval plan require you to pay an initial purchase price and periodic maintenance fees. The initial purchase price may be paid all at once or over time; periodic maintenance fees are likely to increase every year.

**Deeded Timeshare Ownership.** In a timeshare, you either own your vacation unit for the rest of your life, for the number of years spelled out in your purchase contract, or until you sell it. Your interest is legally considered real property. You buy the right to use a specific unit at a specific time every year, and you may rent, sell, exchange, or bequeath your specific timeshare unit. You and the other timeshare owners collectively own the resort property.

Unless you've bought the timeshare outright for cash, you are responsible for paying the monthly mortgage. Regardless of how you bought the timeshare, you also are responsible for paying an annual maintenance fee; property taxes may be extra. Owners share in the use and upkeep of the units and of the common grounds of the resort property. A homeowners' association usually handles management of the resort.





Timeshare owners elect officers and control the expenses, the upkeep of the resort property, and the selection of the resort management company.

**“Right to Use” Vacation Interval Option.** In this option, a developer owns the resort, which is made up of condominiums or units. Each condo or unit is divided into “intervals” — either by weeks or the equivalent in points. You purchase the right to use an interval at the resort for a specific number of years — typically between ten (10) and fifty (50) years. The interest you own is legally considered personal property. The specific unit you use at the resort may not be the same each year. In addition to the price for the right to use an interval, you pay an annual maintenance fee that is likely to increase each year.

**Before You Buy a Timeshare.** In calculating the total cost of a timeshare or vacation plan, include mortgage payments and expenses, like travel costs, annual maintenance fees and taxes, closing costs, broker commissions, and finance charges. Maintenance fees can rise at rates that equal or exceed inflation, so ask whether your plan has a fee cap. You must pay fees and taxes, regardless of whether you use the unit.

To help evaluate the purchase, compare these costs with the cost of renting similar accommodations with similar amenities in the same location for the same time period. If you find that buying a timeshare or vacation plan makes sense, comparison shopping is your next step.

- Evaluate the location and quality of the resort, as well as the availability of units. Visit the facilities and talk to current timeshare or vacation plan owners about their experiences. Local real estate agents also can be good sources of information. Check for complaints about the resort developer and management company with the state Attorney General and local consumer protection officials.
- Research the track record of the seller, developer, and management company before you buy. Ask for a copy of the current maintenance budget for the property. Investigate the policies on management, repair, and replacement furnishings, and timetables for promised services. Read the reviews.
- Get a handle on all the obligations and benefits of the timeshare or vacation plan purchase. Is everything the salesperson promises written into the contract? If not, walk away from the sale.
- Don't act on impulse or under pressure. Purchase incentives may be offered while you are touring or staying at a resort. While these bonuses may present a good value, the timing of a purchase is your decision. You have the right to get all promises and representations in writing, as well as a public offering statement and other relevant documents.
- Study the paperwork outside of the presentation environment, and if possible, ask someone who is knowledgeable about contracts and real estate to review it before you make a decision.


- Use Google street view to scope out the location. The pictures and property may look appealing but what's near the location may not. Checking the housing, shops, restaurants, and areas nearby to see make sure you'll be comfortable staying in the area.
- Ask about your ability to cancel the contract, sometimes referred to as a "right of rescission." Many states (and maybe your contract) give you a right of rescission, but the amount of time you have to cancel may vary. State law or your contract also may specify a "cooling-off period" which is how long you have to cancel the deal once you've signed the papers. If a right of rescission or a cooling-off period isn't required by law, ask that it be included in your contract.
- If, for some reason, you decide to cancel the purchase, either through your contract or state law, do it in writing. Send your letter by certified mail and ask for a return receipt so you can document what the seller received. Keep copies of your letter and any enclosures. You should receive a prompt refund of any money you paid, as provided by law.
- Use an escrow account if you're buying an undeveloped property and get a written commitment from the seller that the facilities will be finished as promised. That's one way to help protect your contract rights if the developer defaults. Make sure your contract includes clauses for "non-disturbance" and "non-performance." A non-disturbance clause ensures that you'll be able to use your unit or interval if the developer or management firm goes bankrupt or defaults. A non-performance clause lets you keep your rights, even if your contract is bought by a third party. You may want to contact an attorney who can provide you with more information about these provisions.

**Use Caution.** Be wary of offers to buy timeshares or vacation plans in foreign countries. If you sign a contract outside the U.S. for a timeshare or vacation plan in another country, you are not protected by U.S. laws.

**Timeshare Exchange Systems.** An exchange allows a timeshare or vacation plan owner to trade units with another owner who has an equivalent unit at an affiliated resort within the system. Here's how it works: A resort developer has a relationship with an exchange company, which administers the service for owners at the resort. Owners become members of the exchange system when they buy their timeshare or vacation plan. At most resorts, the developer pays for each new member's first year of membership in the exchange company, but members pay the exchange company directly after that.

To participate, a member must deposit a unit into the exchange company's inventory of weeks available for exchange. When a member takes a week from the inventory, the exchange company charges a fee.





In a points-based exchange system, the interval is automatically put into the inventory system for a specified period when the member joins. Point values are assigned to units based on length of stay, location, unit size, and seasonality. Members who have enough points to secure the vacation accommodations they want can reserve them on a space-available basis. Members who don't have enough points may want to investigate programs that allow banking of prior-year points, advancing points, or even "renting" extra points to make up differences.

Whether the exchange system works satisfactorily for owners is another issue to look into before buying. Keep in mind that you will pay all fees and taxes in an exchange program whether you use your unit or someone else's.

### **SELLING A TIMESHARE THROUGH A RESELLER**

If you're thinking of selling a timeshare, contact resellers, such as real estate brokers and agents, who specialize in reselling timeshares. Be cautious of those claiming that the market in your area is "hot" and that they're overwhelmed with buyer requests. Some may even say that they have buyers ready to purchase your timeshare or promise to sell your timeshare within a specific time.

**If you want to sell your deeded timeshare, and a company approaches you offering to resell your timeshare, go into skeptic mode.**

- Don't agree to anything on the phone or online until you've had a chance to check out the reseller. Contact the Attorney General's Consumer Protection Division and local consumer protection agencies in the state where the reseller is located. Ask if any complaints are on file. You also can search online for complaints.
- Ask the salesperson for all information in writing.
- Ask if the reseller's agents are licensed to sell real estate where your timeshare is located. If so, verify it with the state Real Estate Commission. Deal only with licensed real estate brokers and agents and ask for references from satisfied clients.
- Ask how the reseller will advertise and promote the timeshare unit. Will you get progress reports? How often?
- Ask about fees and timing. It's preferable to do business with a reseller that takes its fee after the timeshare is sold. If you must pay a fee in advance, ask about refunds. Get refund policies and promises in writing.
- Don't assume you'll recoup your purchase price for your timeshare, especially if you've owned it for less than five years and the location is less than well-known.

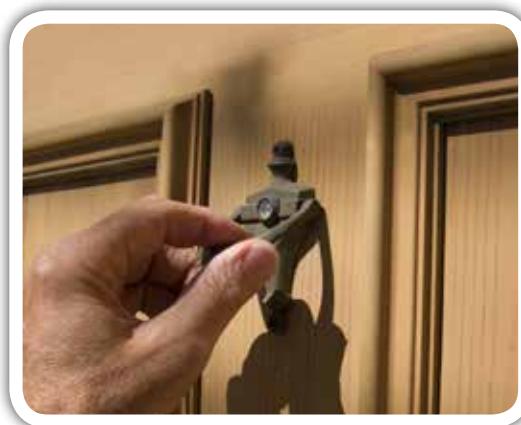
If you want an idea of the value of a timeshare that you're interested in buying or selling, consider using a timeshare appraisal service. The appraiser should be licensed in the state where the service is located. Check with the state to see if the license is current.

**Contract Caveats.** Before you sign a contract with a reseller, get the details of the terms and conditions of the contract. It should include the services the reseller will perform; the fees, commissions, and other costs you must pay and when; whether you can rent or sell the timeshare on your own at the same time the reseller is trying to sell your unit; the length or term of the contract to sell your timeshare; and who is responsible for documenting and closing the sale. If the deal isn't what you expected or wanted, don't sign the contract. Negotiate changes or find another reseller.

To learn more about vacation ownership, contact the American Resort Development Association at (855) 939-1515 or at [www.arda.org](http://www.arda.org). It represents the vacation ownership and resort development industries. ARDA has nearly 1,000 members, ranging from privately-held companies to major corporations, in the U.S. and overseas.

## DOOR-TO-DOOR SALES

Door-to-door salespeople can put a lot of pressure on consumers, sometimes catching people off guard and trick them into buying items. Don't give into the gimmick that special only lasts today! When buying from a door-to-door salesperson, make sure to get prices and warranties in writing. Be sure to read contracts before signing them. Do not sign any documents that have not been fully completed.



Asking the right questions when approached by those vendors can help you avoid making a purchase you may regret. Remember to:

- Get a price quote, in advance, in writing.
- Ask if they have a permanent address and phone number.
- Get a list of local references and CHECK THEM before making a decision.
- Be careful about paying for work in advance.
- Get something in writing with the company's name, address & phone number.
- **Ask to see their current South Dakota tax license. They MUST have one to do business in our state!**
- Any paperwork provided to the customer should have the businesses name on it along with an address.
- Ask the salesperson about the product warranties, guarantees, etc.
- Find out if they have workman's compensation and general liability insurance.
  - If they don't, YOU could be liable for accidents that occur on your property!
- Make sure you're completely satisfied with the work before paying the bill, and
  - Don't pay more for the job than originally quoted unless you've given written approval for the additional work or cost.
- Make all payments to the company, and not in the name of the salesperson or associate.



All sellers must provide you with a contract or receipt at the time of sale showing the date, merchant's name and address, and a statement informing you of your right to cancel the contract within three (3) days. You have three (3) days to cancel purchases made in your home or place other than the place of business of the seller.

This law does not cover purchases under \$25.00, or items purchased at home parties, or purchases that began in the seller's place of business. The seller **must** inform you of your Three-Day Right To Cancel and supply you a duplicate Notice of Cancellation. The seller is also prohibited by South Dakota Law from putting any language on the contract/receipt that nullifies the Three-Day Right to Cancel.

To cancel your purchase, you must mail one copy of the Notice of Cancellation and a **copy** of your receipt to the business, before midnight of the third business day after the sale. Send the Notice of Cancellation by Certified Mail.

If you cancel within the allotted time, the seller must cancel and return any papers you signed within ten (10) days. The seller must refund all of your money and tell you whether any product left with you will be picked up. The seller must also return any trade-in. After proper cancellation, the seller has ten (10) days to refund your money.

Have doubts about the vendor or think you have been scammed? Contact the Attorney General's Consumer Protection Division at 1-800-300-1986 or by email at [consumerhelp@state.sd.us](mailto:consumerhelp@state.sd.us). You can also contact your local police department or county sheriff's office. Be prepared to give as much information as you can about the vendor, including the name of the company and salesperson; company address and telephone number; and make, model and license number (if possible) of the vehicle the vendor was driving. Without tips from the public, law enforcement officials may not be able to catch illegal vendors before they move on to the next community.

For more information on transient vendors, contact the SD Department of Revenue at 1-800-829-9188 and Attorney General's Consumer Protection Division at 1-800-300-1986.

## INTERNET ISSUES

Using the internet may allow us to share information and exchange data more easily. It can provide entertainment, information, social networking, gaming and connections to people all over the world. Households are connected today more than ever, and the number of devices is growing.

A malicious email can look just like it comes from a financial institution, an e-commerce site, a





government agency or any other service or business. It often urges you to act quickly because your account has been compromised, your order cannot be fulfilled or there is another urgent matter to address.

- Traditional phishing attack

The traditional phishing attack casts a wide net and attempts to trick as many people as possible. A classic example of this is the Nigerian prince advance-fee scam.

- Spear phishing

Spear phishing attacks are designed to target a specific individual or small group of individuals. For example, a spear phishing attack may use information about a particular restaurant or small business to target one or more employees at that business. Or it could look like an email from a friend.

- Whaling

Whaling attacks, which have become increasingly popular in recent years, are targeted at high-profile victims like C-level executives and their teams. A typical whaling email may look like it was sent from the CEO of your company. But it's really a fake designed to get you to share valuable information about the company.

## Protect yourself from phishing scams

Phishing emails may be more difficult to identify these days, but there are some important steps you can take to avoid becoming a victim. If you answer 'yes' to any of the questions below, there's a very good chance that you're looking at a phishing email.

- **Does the message ask for personal information?**

Always remember that reputable businesses do not ask for personal information – such as social security and credit card numbers – via email.

- **Does the offer seem too good to be real?**

If it seems too good to be true, it's a fake. Beware of emails offering big rewards – vacations, cash prizes, etc. – for little effort.

- **Does the salutation look odd?**

Reputable companies will use your name in the salutation – as opposed to “valued customer” or “to whom it may concern.”

- **Does the email have mismatched URLs?**

If you receive an email from an organization that includes an HTML link in it, hover your mouse over the link without clicking and you should see the full URL appear. If the URL does not include the organization's exact name, or if it looks suspicious in any other way, delete it because it's probably a phishing email. Also, you should only visit websites that begin with 'https' because the 's' at the end indicates advanced security measures. Websites that begin with “http” are not as secure.

- **Does it give you a suspicious feeling?**

Trust your instincts when it comes to email. If you catch yourself wondering whether it's legitimate, and your instinct is to ignore and delete it—then pay attention to that gut check.

- **Keep a clean machine.**

Keep all software on internet-connected devices – including PCs, smartphones and tablets – up to date to reduce risk of infection from malware.

### What to Do if You Are a Victim

- **Report it to the appropriate people** within the organization, including network administrators. They can be alert for any suspicious or unusual activity.
- If you believe your financial accounts may be compromised, **contact your financial institution immediately** and close the account(s).
- **Watch for any unauthorized charges** to your account.
- **Consider reporting the attack** to the Attorney General’s Consumer Protection Division at 1-800-300-1986 or forward the email to [consumerhelp@state.sd.us](mailto:consumerhelp@state.sd.us). You can also send the information to the Federal Trade Commission or the Internet Crime Complaint Center.

## CHARITIES & CONTRIBUTIONS

If you’re considering donating to a charity, do some research before you give. By finding out as much as you can about the charity, you can avoid fraudsters who try to take advantage of your generosity.

South Dakota does not have licensing or registration requirements for non-profit or charitable organizations. South Dakota also does not require charitable organizations who conduct solicitations via direct mail to register. Paid solicitors who conduct telephone solicitation campaigns on behalf of a charitable organization are required to be registered and bonded with Attorney General’s Consumer Protection Division . Paid solicitors hired by a charity or non-profit are also required to provide solicitation campaign notices and financial reports to Consumer Protection.

**Although charities are not required to be registered, here are tips to help make sure that your charitable contributions go to the cause you wish to support:**

- Ask for detailed information about the charity, including name, address, and telephone number.
- Get the exact name of the organization and do some research. Searching the name of the organization online — especially with the word “complaint(s)” or “scam”— is one way to learn about its reputation.
- Call the charity. Find out if the organization is aware of the solicitation and has authorized the use of its name. The organization’s development staff should be able to help you.
- Check if the charity is trustworthy by contacting the Better Business Bureau’s (BBB) Wise Giving Alliance ([www.bbb.org/us/charity](http://www.bbb.org/us/charity)), Charity Navigator ([www.charitynavigator.org](http://www.charitynavigator.org)), Charity Watch ([www.charitywatch.org](http://www.charitywatch.org)), or GuideStar ([www.guidestar.org](http://www.guidestar.org)).
- Ask if the caller is a paid fundraiser. If so, ask:
  - The name of the charity they represent

- The percentage of your donation that will go to the charity
- How much will go to the actual cause to which you're donating
- How much will go to the fundraiser
- Keep a record of your donations.
- Visit the Internal Revenue Service (IRS) webpage at <http://apps.irs.gov/app/eos/> to find out which organizations are eligible to receive tax deductible contributions.
- Know the difference between "tax exempt" and "tax deductible." Tax exempt means the organization doesn't have to pay taxes. Tax deductible means you can deduct your contribution on your federal income tax return.
- Never send cash donations. For security and tax purposes, it's best to pay by check (made payable to the charity) or by credit card.
- Never wire money to someone claiming to be a charity. Scammers often request donations to be wired because wiring money is like sending cash: once you send it, you can't get it back.
- Do not provide your credit or check card number, bank account number or any personal information until you've thoroughly researched the charity.
- Be wary of charities that spring up too suddenly in response to current events and natural disasters. Even if they are legitimate, they probably don't have the infrastructure to get the donations to the affected area or people.
- If a donation request comes from a group claiming to help your local community (for example, local police or firefighters), ask the local agency if they have heard of the group and are getting financial support.

Though the National Do Not Call Registry gives you a way to reduce telemarketing calls, charities and political groups are exempt. If a charity or non-profit is calling or sending you mailings, you can request that they remove your name and address from their system, and that they cease contact.

## **CHARITABLE SWEEPSTAKES**

Be cautious of promises of guaranteed sweepstakes winnings in exchange for a contribution. According to U.S. law, you never have to make a donation to be eligible to win a sweepstakes. Both donor and non-donor sweepstakes participants have an equal chance of winning a prize.

Although a sweepstakes letter indicates "you're a winner," it's unlikely that you have won the "grand prize." For a national direct mail campaign, a charitable organization may mail a half million to ten million or more letters.

### **CHARITABLE SWEEPSTAKES SCAMS**

Charities and fundraisers (groups that solicit funds on behalf of organizations) use the phone, face-to-face contact, email, the internet (including social networking sites), and mobile devices to solicit and obtain donations. Naturally, scammers use these same methods to take advantage of your goodwill. Regardless of how they reach you, avoid any charity or fundraiser that:

- Refuses to provide detailed information about its identity, mission, costs and how the donation will be used.
- Won't provide proof that a contribution is tax deductible.
- Uses a name that closely resembles that of a better-known, reputable organization.
- Thanks you for a pledge you don't remember making.
- Uses high-pressure tactics like trying to get you to donate immediately, without giving you time to think about it and do your research.
- Offers to send a courier or overnight delivery service to collect the donation immediately.
- Guarantees sweepstakes winnings in exchange for a contribution. By law, you never have to give a donation to be eligible to win a sweepstakes.

## **SWEEPSTAKES, LOTTERIES (Raffles), & BINGO**

Have you ever wondered what the difference between a lottery and a raffle or a lottery and sweepstake? People use these terms interchangeably, there are however some distinctions for each. Knowing the distinction between them can be helpful as only some can be done legally.



**What's a sweepstakes?** A sweepstakes is a promotional drawing in which prizes are given away at no charge to the participants (no purchase or consideration necessary to enter). Winners are selected at random. Publishers Clearing House and HGTV Summer Home Sweepstakes are well known sweepstakes. SDCL 37-32

**How is bingo defined?** Bingo is a game in which each player is supplied a card, board, or electronic bingo device containing five (5) adjoining horizontal and vertical rows with five (5) spaces in each row each containing a number or figure therein, except for the central row with four (4) spaces, each containing a number or figure therein and the word, free, marked in the center space thereof. Numbers are drawn randomly by a caller, the winner being the first person to mark off five (5) numbers in a row or another required pattern. SDCL 22-25-23

**What's a lottery?** A lottery is a means of raising money by selling tickets and giving prizes to the holder(s) of a ticket drawn at random. The winner is chosen at random, like in a sweepstakes, but entrants have to pay to play (unlike a sweepstakes). A lottery is essentially a game of luck that has an entry fee. Under South Dakota law, games of chance are prohibited in the state, except if an exemption is granted, such as for Deadwood gaming or the state lottery. Other exceptions include bingo and lotteries for charitable purposes. SDCL 22-25-24

Under state law, the 3 elements necessary for a lottery are:

- Prize
- Chance (not everyone will win)
- Consideration (a person has to pay to be eligible)

For complete list of the permitted conditions see SDCL 22-25-25.

### **EXAMPLES**

**I am planning to hold a drawing at my business and would like to require people to purchase a minimum amount of merchandise in order to be eligible for the drawing. Is this legal?**

No, according to South Dakota law this would be considered an illegal lottery. Only charities and non-profits are allowed to conduct a drawing in which participants pay to be eligible to win. If you have a drawing for prizes in your store, you cannot require entrants to make a purchase or to pay an entry fee or spend money in any way in order to be eligible.

**I am planning on selling raffle tickets to help benefit someone in need, what do I need to do?**

- The raffle would have to be conducted by a defined entity in SDCL 22-25-25(1), typically a charitable entity or non-profit organization.
- Permission should be sought by the municipality or county in which the drawing will be held. This should be done thirty (30) days prior to selling tickets.
- If there is a chance that tickets will be sold outside the county holding the drawing you must register the raffle with the South Dakota Secretary of State - this would be considered a state-wide raffle. Use the prescribed form provided at [www.sdsos.gov](http://www.sdsos.gov)
- The municipality has the right to disapprove of the raffle.

**Are there any limitations on how long I can conduct my raffle?**

SDCL 22-25-52 No lottery may continue for longer than eighteen months after the date on which the first ticket is sold. If an organization determines that a drawing cannot be held within eighteen months, the organization shall within thirty (30) days notify all purchasers that the lottery cannot be completed or prize awarded, and that each purchaser is entitled to a full refund of the ticket price upon the submission of a request for refund. If a purchaser fails to contact the organization and request a refund within one hundred eighty days (180) after the notice was given, the organization shall remit the unclaimed refund amount to the Office of State Treasurer as unclaimed property pursuant to chapter 43-41B.

For further information or questions, you can contact the Attorney General's Consumer Protection Division at 1-800-300-1986 or 605-773-4400.



## MONEY WIRING SCAMS

Scam artists use a number of elaborate schemes to get your money, and many involve money transfers through companies like Western Union and MoneyGram. Money transfers may be useful when you want to send funds to someone you know and trust, but they're completely inappropriate when you're dealing with a stranger.

Why do scammers pressure consumers to use money transfers? So they can get their hands on the legitimate money before their victims realize they've been cheated. Once the money has been picked up, there is no way you can reverse the transaction or trace the money. Additionally, when you wire money to another country, the recipient can pick it up at multiple locations, making it nearly impossible to identify them or track them down. In some cases, the receiving agents of the money transfer company might be an accomplice in the fraud. Money transfers are virtually the same as sending cash and there are no protections for the sender.

Many money transfer scams involve dramatic or convincing stories that play on your optimistic nature, your selflessness or your thriftiness. But no matter how you construe it, they always cost you money. Here are some scams involving money transfers that you may recognize.

**Grandparent Scams.** *"Grandpa, do you know who this is?"* Grandpa not wanting to admit he doesn't recognize his grandchild says a name of one of them. Now the scammer has the information he needs to continue with the scam. The scammer appears to be in great distress and tells grandpa *"I'm in jail and need bail money. Please go the Western Union office and send me \$2000.00 right away! And please don't tell my parents: they'll be so disappointed!"*

Scam calls such as this use several reasons for the grandparent to wire money such as needing funds to repair a car, pay a fine, or for getting out of trouble in a foreign country. These scammers are banking on your love and concern to outweigh your skepticism. They swear you to secrecy and play on your emotions, in hopes that you'll wire the money right away. Once the money is picked up, you can't trace it or get it back. Imposters encourage using money wire services so they can get your hard earned money before you realize you've been scammed.

**Lottery and Sweepstakes Scams.** The letter says you just won a lottery. All you have to do is deposit the enclosed cashier's check and wire money for "taxes" and "fees." Regardless of how legitimate the check looks, it's no good. When it bounces, you'll be responsible for the money you sent. Refer to the *Sweepstakes Scams* section of this handbook for more information.

**Overpayment Scams.** Someone answers the ad you placed to sell something and offers to use a cashier's check, personal check or corporate check to pay for it. But at the last minute, the buyer (or a related third party) comes up with a reason to write the check for more than the purchase price, asking you to wire back the difference.

The fake check might fool bank tellers, but it will eventually bounce, and you'll have to cover it.

**Relationship Scams.** You meet someone on a dating site and things get serious. You send messages, talk on the phone, trade pictures, and even make marriage plans. Soon you find out he or she is going to Nigeria or another country for work. Once he's there, he needs your help: can you wire money to help? The first transfer may be small, but it's followed by requests for more – to help him get money the government owes him, to cover costs for a sudden illness or surgery for a son or daughter, to pay for a plane ticket back to the U.S. – always with the promise to pay you back. You might get documents or calls from lawyers as “proof.” But as real as the relationship seems, it's a scam. You will have lost any money you wired, and the person you thought you knew so well will be gone with it.

**Mystery Shopper Scams.** You're hired to be a mystery shopper and asked to evaluate the customer service of a money transfer company. You get a check to deposit in your bank account and instructions to withdraw a certain amount in cash and wire it to another country, using the service. When the counterfeit check is uncovered, you're on the hook for the money.

**Online Purchase Scams.** You're buying something online and the seller insists on a money transfer as the only form of payment that's acceptable. Ask to use a credit card, an escrow service or another way to pay. If you pay by credit or charge card online, your transaction will be protected by the Fair Credit Billing Act. Insisting on a money transfer is a signal that you won't get the item – or your money back.

**Apartment Rental Scams.** In your search for an apartment or vacation rental, you find a great prospect at a great price. It can be yours if you wire money – for an application fee, security deposit and/or the first month's rent. Once you've wired the money, it's gone, and you learn there is no rental. A scammer hijacked a real rental listing by changing the contact information and placing the altered ad on other sites. Or, they made up a listing for a place that isn't for rent or doesn't exist, using below-market rent to lure you in. If you're the one doing the renting, watch out for the reverse: a potential renter will say they want to cancel their deposit and ask you to wire the money back – before you realize the check was a fake.

**Advance Fee Loans Scams.** You see an ad or website – or get a call from a telemarketer – that guarantees a loan or a credit card regardless of your credit history. When you apply, you find out you have to pay a fee in advance. If you have to wire money for the promise of a loan or credit card, you're dealing with a scam artist: there is no loan or credit card.

**Family Emergency or Friend-in-Need Scams.** You get a call or email out of the blue from someone claiming to be a family member or friend who says he needs you to wire cash to help him out of a jam – to fix a car, get out of jail or the hospital or leave

a foreign country. But they don't want you to tell anyone in the family. Unfortunately, it's likely to be a scammer using a relative's name. Check the story out with other people in your family. You also can ask the caller some questions about the family that a stranger couldn't possibly answer.

**Hacked or “Hijacked” Email Scams.** You get a flood of messages from friends and family. They're getting emails from you with seemingly random links, or messages with urgent pleas to wire you money. It looks like your email or social media account might have been taken over. What do you do? For starters, make sure your security protections are up-to-date, reset your password, and warn your friends (A quick email letting your friends know they might have gotten a malicious link or a fake plea for help can keep them from sending money they won't get back or installing malware on their computers). Also, check the advice your email provider or social networking site has about restoring your account. If your account has been taken over, you might need to fill out forms to prove it's really you trying to get back into your account.

### **Gift Cards**

Gift cards are a popular way to give someone a gift. They're also a very popular way for scammers to steal money from you. Gift cards are just like cash. Scammers will try to convince you that because you still have the card in your possession that this is the quickest and safest way to get them the funds. The scammer will then tell you that they need the numbers off of the back of the card just for verification purposes – once you give those numbers to the scammer, they now have access to those funds and they will withdrawal them immediately. If you act quickly by contacting the company that issued the card, they may be able to get your money back. Tell them the card was used in a scam and ask about a refund.

**PLEASE NOTE:** Gift cards are for gifts, **not** payments. Anyone who demands payment by gift card is always a scammer.

## **SWEEPSTAKE SCAMS**

Have you received an official-looking letter saying you've won a foreign lottery or sweepstakes? How about a phone call or email saying you won a large sum of money and a new car? Responding to these types of solicitations can be tempting: After all, maybe there's a possibility that you won some money that could turn your dreams into reality!

There's a catch! Unfortunately, many people think the cashier's check accompanying the letter is real. It's not. It's a trick to get you to cash the counterfeit check and wire all or a portion of the money to someone you don't know. Eventually your bank will be notified by the Federal Reserve that the



check is fraudulent and your bank will then require you to pay all the money back. In some cases, the scammers don't send a letter and check, but instead they call and request that you purchase a prepaid or reloadable credit card, in order to obtain your winnings. Either way, this is a scam!

**When receiving mailings, calls, or emails saying that you won money, make sure to watch for these tell-tale lines that scammers use to trick you into falling victim to their scams:**

- "You've won millions of dollars!"
- "You must decide right away. We have no time to waste."
- "We can put the shipping/transport charges on your credit card."
- "Make sure to keep this a secret for now. Don't tell your family, lawyer, etc. until we finalize your transaction."
- "We'll send you the money to pay for the taxes."

If you are someone who trusts these kinds of offers and follows up by wiring money or purchasing a prepaid/reloadable credit card for fictional taxes and fees, you're not only out of luck, but also out of money. Furthermore, responding to these mailings, e-mails, or calls, will place your name on a "sucker list" that fraudulent telemarketers buy and sell, so expect more bogus offers for lottery or investment scams. The following will help you detect a scam:


**Sweepstakes Scams Require You Pay to Receive the Prize.** Legitimate sweepstakes will never ask you to pay fees to participate or to receive a prize. You should never have to pay handling charges, service fees, or any other kind of charges up front to receive a win - those are sure signs of sweepstakes scams. Sweepstakes taxes are paid directly to the IRS along with your regular tax return.

**Sweepstakes Scams Typically Use Free E-mail Accounts.** It's possible that some smaller, legitimate sweepstakes sponsors could notify you with a free email address. But if you receive a win notice claiming to be from a big company like Publishers Clearing House or Microsoft, but the email arrived from a free account like Hotmail or Gmail, you can be sure that you are working with a sweepstakes scam.

**Sweepstakes Scams Tell You You've Won - But You Don't Recognize the Contest.** You can only win sweepstakes that you enter. This is another reason why it makes so much sense to organize your sweepstakes entries; when you receive a notification, you can easily check to make sure that you actually entered the contest.

**Sweepstakes Scams Send You a Large Check with your Notification.** To fool people into thinking that a sweepstakes scam is legitimate, many con artists send counterfeit checks along with their phony win notifications. Cashing fraudulent checks is a crime, and you could be liable for fines and even closure of your bank account, as well as losing any money you wire. Legitimate sweepstakes require affidavits before sending out any prize valued at more than \$600.





**Sweepstakes Scams Instruct You to Wire Money.** Criminals love to use money transfer services like Western Union and MoneyGram to receive illicit funds, because it is extremely hard to trace who received the money. Wire transfers are handled like cash, and it is nearly impossible to get back any money that you send to con artists in this way. In the few cases where you have to pay money to a sponsor, you would not be required to use a wire service.

**Sweepstakes Scams Pressure You to Act in a Hurry.** Sweepstakes scammers want you to act quickly, to ensure that they receive their money before their check bounces, or you read an article like this one, and realize that you are being defrauded. If you feel like you are being pressured to make a decision before you have the time to ensure that the win is legitimate, you should be very suspicious. In some cases, a sponsor might need a quick answer (for example, if they are giving away tickets for a concert that weekend), but you should always have at least a few hours to investigate the notification. If there is no good reason for a rush to accept a prize, then it's probably a sweepstakes scam.

**Sweepstakes Scams Require Bank or Credit Card Info to Receive Your Prize.** Legitimate sweepstakes do not send wins by direct deposit, nor do they need to withdraw money from your bank or verify information using your credit card number. The only sensitive information that a legitimate sweepstakes sponsor needs to process your win is a social security number. Asking for a bank account or credit card number is a huge red flag that you are dealing with a sweepstakes scam, and you should never hand over this information.

**The “Win” is From a Lottery.** It is impossible to win a lottery without buying a ticket, and even in that case, you'd have to find the winning numbers in a newspaper, the internet, or on TV and compare them to your ticket. The lottery does not contact you to tell you that you won. If your win notification says you've won a lottery, you can be quite sure that it's really a sweepstakes scam.

Win notices from foreign lotteries are even more suspicious. Not only do foreign lotteries have the same restriction as domestic lotteries, but it is also illegal to sell tickets for foreign lotteries across international borders. Therefore, unless you were actually in a foreign country and bought a lottery ticket, foreign lottery notifications are surely sweepstakes scams.

**Sweepstakes Scams Often Don't Use Your Name.** Especially in the case of email win notifications, many sweepstakes scams send thousands upon thousands of fake emails to every address they can get their hands on - often without knowing the name of the people they're contacting. If your win notice has a generic salutation like “Dear Sir” it's a good indication that it's a sweepstakes scam.

**Sweepstakes Scams Can Pose As Government Organizations.** To appear more legitimate, some sweepstakes scams pretend to come from government



organizations such as the Federal Trade Commission (FTC) or the “National Sweepstakes Board” (which doesn’t actually exist). Real sweepstakes sponsors, however, send their win notifications directly to the winners. Government organizations are not involved in awarding sweepstakes prizes.

**Sweepstakes Scam Notifications Are Usually Sent Via Bulk Mail.** When a legitimate sweepstakes sponsor sends out win notifications, they want to ensure that the information arrives at the winners’ doors in a reasonable amount of time. To make sure this happens, they use first class postage or services such as FedEx or UPS to deliver notifications.

Sweepstakes scam artists, on the other hand, want to target the most people for the least cost in order to keep their profits high. They send scam letters out by bulk mail to take advantage of the postage savings. For this reason, you should never trust a win notification that arrives by bulk mail.

**Sweepstakes Scams Contain Many Typos.** It’s possible that any company could make a mistake when typing out a win notification. However, glaring errors in spelling, grammar, and punctuation should set off red flags in your mind. Many sweepstakes scams originate outside of the United States and Canada and are created by people with poor command of the language. Be very cautious of any win notices that have a lot of errors.

## **PET SCAMS**

Adorable photos and heart-tugging tales of critters in need of forever homes, that’s how scam artists hook consumers. Don’t get lured in by these scammers. They are getting better at what they do, they’ll ask you due-diligence-type questions about your home situation and experience with pets. Some will direct you to a transport company website (also bogus) so you can track your nonexistent pet’s progress – additional funds are needed for a special shipping container, travel usually gets delayed, anything the scammer can come up with that requires more money from you. Don’t get caught in their trap.

### **Tips for avoiding a pet scam:**

- The asking price for a dog or cat is far below the normal rate for a popular breed.
- The person offering the animal insists on shipping and rebuffs offers to collect the pet in person.
- Emails from the seller or the shipping company have poor spelling and grammar.
- Do a reverse-image search for pictures of a specific animal you are considering buying or adopting. Also, copy and paste text from a sales site or ad into a search engine. If you find matching images or text on multiple sites, you’re probably dealing with a scammer.
- The seller requires payment by money transfer (such as Western Union or

- MoneyGram), gift card or prepaid debit card.
- The shipment is continually held up by demands that you wire more money for, say, insurance, pet food, veterinary care or a special crate.

## MULTI-LEVEL MARKETING vs PYRAMID SCHEMES

**Multi-level Marketing (MLM)** or network marketing, is individuals selling products to the public — often by word of mouth and direct sales. The main idea behind the **MLM strategy** is to promote maximum number of distributors for the product and exponentially increase the sales force. The promoters get commission on the sale of the product as well as compensation for sales their recruits make thus, the compensation plan in multi-level marketing is structured such that commission is paid to individuals at multiple levels when a single sale is made, and commission depends on the total volume of sales generated.



**Pyramid Schemes** are, however, fraudulent schemes, disguised as an MLM strategy. The difference between a pyramid scheme and a lawful MLM program is that there is no real product that is sold in a pyramid scheme. Participants attempt to make money solely by recruiting new participants into the program. The hallmark of these schemes is the promise of sky-high returns in a short period of time for doing nothing other than handing over your money and getting others to do the same.

### Legitimacy

Learn more about a company, by finding and studying a company's track record. Do an internet search with the name of the company and words like review, scam, or complaint. Look through several pages of search results. You also may want to look for articles about the company in newspapers, magazines, or online. Find out:

- How long the company has been in business.
- Whether it has a positive reputation for customer satisfaction.
- What the buzz is about the company and its product on blogs and websites.
- Whether the company has been sued for deceptive business practices.
- Check with Attorney General's Consumer Protection Division for complaints about any company you're considering, although a lack of complaints doesn't guarantee that a company is legitimate.

Don't pay or sign a contract in an "opportunity meeting." Take your time to think over your decision. Your investment requires real money, so don't rush into it without doing some research first.

**Ask your sponsor for the terms and conditions of the plan, including:**

- The compensation structures.

- Your potential expenses.
- Support for claims about how much money you can make.
- The name and contact information of someone at the company who can answer your questions.

**Get this information in writing.** Avoid any plan where the reward for recruiting new distributors is more than it is for selling products to the public. That's a time-tested and traditional tip-off to a pyramid scheme.

Keep in mind that when you recruit new distributors, you are responsible for the claims you make about how much money they can earn. Be honest and be realistic. If your promises fall through, you could be held liable, even if you are simply repeating claims you read in a company brochure or heard from another distributor. If you don't understand something, ask for more information until it is absolutely clear to you.

## MODELING/TALENT SCHOOLS

Could you really be a model or actor? Or maybe it's your kids that "have the right look?" If a talent scout says you've got a future in the business, you might be flattered. Then, be skeptical. You could be the target of a modeling scam.

### How Modeling Scams Work

Someone stops you and says you could be a model. People have always said you're good looking, and the idea of a glamorous career is hard to resist.

But when you show up for a follow-up appointment, you find yourself in an office with other hopefuls. Once you finally get your turn, you find out that what you thought was a job interview with a modeling or talent agency is really a high-pressure sales pitch for modeling or acting classes, screen tests, or photo shoots that can range in price from several hundred to several thousand dollars.

### Here are some signs you might be dealing with a scam:

**You have to use a specific photographer.** An agency that requires you to use their photographers likely is a scam.

**You have to pay a fee to them to serve as your agent before they'll do any work on your behalf.** Legitimate agencies don't charge you an up-front fee to serve as your agent. They get paid when you get paid.

Modeling agencies aren't the same as modeling and acting schools. These schools claim to provide instruction — for a fee — in poise, posture, diction, skin care, make-up application, the proper walk, and more. But after you take their classes, you may be on your own, despite their promises that attending modeling school will ensure you make it as a model.



**You're told the opportunity could disappear if you don't act now.**

You need time to check out a company before you give them any money or personal information.

**They guarantee a refund.**

They may say your deposit is totally refundable. There may be very strict refund conditions.

**They only accept payment in cash or by money order.**

It's a sure sign that they're more interested in your money than your career.

**They talk about big salaries.**

Even for successful models, work can be irregular.

**They guarantee you'll get work.**

No modeling or acting job is ever guaranteed. And depending on where you live, the market for those types of jobs may be very small.

**What to Do**

Still not sure if an offer is honest? Take the time to check the company out before you give them any money or personal information.

**Check its reputation online.**

Try searching for the company's name with words like "scam," "rip-off," or "complaint."

**Ask if the company or school is licensed or bonded, if that's required by your state.**

Verify this information with your local consumer protection agency or your state Attorney General. Make sure the license is current.

**Get references.**

Specifically:

- Ask for the names, addresses, and phone numbers of models and actors who have gotten work — recently — based on the company's training.
- If an agency says it has placed models and actors in specific jobs, contact the companies to verify that they've hired models and actors from the agency.

**Get everything in writing.**

That includes spoken promises or assurances.

**Keep copies of all-important papers.**

Documents like your contract and company literature should be kept in a safe place.

## COINS, CURRENCY, PRECIOUS METALS & COLLECTIBLES

Coins and collectables can be an interesting and rewarding hobby to get involved in. With the price of precious metals today, this can also be a stressful investment. Knowing what you are buying, and who you are buying it from are very important. Here are a few things to remember when considering a coin, currency, precious metal or collectable purchase:

- Research the product prior to making the purchase to make sure that you are getting exactly what you are paying for. There are various levels and grades of coins. Coins of a certain year or metal may not all be worth the same value.
- Research the company that you are purchasing the product from. Verify that the company is licensed to be buying and selling the product. If you are purchasing the items from a private individual, ask to have the items looked at by a professional to verify that they are what they are advertised to be.
- If you choose to buy and sell coins, currency, precious metals or collectables, try to conduct that business with a reputable local company. If you choose to deal with a company in another state, make sure to contact the agency in that state that regulates the industry to verify that they are a legitimate company.
- Coins, currency, precious metals and collectable companies are often advertised on television and in print media. When placing an order with these companies, make sure that all of the terms of the purchase are agreeable to you. Some companies try to up-sell other products and offers or may want you to join a monthly club where you will receive other items that will need to be paid for or returned within a certain time frame.
- Some companies may ask if you would like to trade your items for something of equal value that they have. If you choose to do this, always research the company to verify that they are legitimate. These valuable items are yours and entrusting them with someone that you do not know can be a risk.

If you would like help finding out more information on a company, feel free to contact the Attorney General's Consumer Protection Division at 1-800-300-1986 or 605-773-4400.

## PATENTS, TRADEMARKS & COPYRIGHTS

A **trademark** is a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others. A trademark protects the name of a business or product.

The Secretary of State is the filing agent for Trademarks, Emblems, and Name Registrations under the laws of South Dakota and can be contacted at 605-773-3537. State statutes governing Trademark and Service Mark Protection can be found in SDCL 37-6.



A **patent** is a property right granted by the Government of the United States of America to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention when the patent is granted. A patent protects an invention.

For more information on patents call the US Patent & Trademark Office: 1-800-786-9199.

A **copyright** protects works of authorship, such as writings, music, and works of art that have been tangibly expressed.

For more information on copyrights call the US Copyright Office: 202-707-3000 or toll free at 1-877-476-0778.

## CAR SHOPPING

Car dealerships are under constant pressure from the manufacturers to sell large volumes of cars. This means that they pass the pressure on to you when you're looking for a new or used vehicle. Here are tips to avoid succumbing to the pressure of salespeople:

- Plan your purchase ahead of time.
- Decide what kind of car you want and how much you can afford to spend. This includes talking to your bank to know how much you are pre-approved for and the interest rates on a loan.
- Try to make financial arrangements before you buy.
- Take a friend or family member along in case you may have questions about something that was said or promised.
- Shop around and compare dealer prices before buying a car.
- Look for specials, rebates and financing incentives from the manufacturer.
- Buy from a dealer with a good reputation.
- Don't be talked into borrowing extra money to make a down payment.
- Negotiate your price and be prepared to walk away. You can always call back the next day and negotiate over the phone.
- Always test drive a car before buying it. If the dealer is not willing to let you drive it, they may be trying to hide something.
- Avoid buying anything in a hurry. Take a few days to make sure you want the vehicle.
- Have used vehicles checked by a mechanic at another facility and make a list of the things which need to be repaired.
- Insist that all promises made by the dealer be put into writing. This includes promised warranties, repairs, and accessories.



- Avoid low-value extras such as credit insurance, auto club memberships, extended warranties for new cars, rust proofing, and upholstery finishes. You do not have to purchase credit insurance in order to get a loan.
- Never sign a contract with blank spaces.
- Ask for proof, in writing, of any repairs made to the vehicle to make it ready for sale.
- When buying a used car, ask to see the title to reveal any damage disclosure information and to verify that it is not a salvaged title.
- Used car dealers must list the price of the vehicle on the contract, any trade-in allowance, and all other fees associated with the car deal. They must also explain all of these charges to you.
- Look at all of the information listed on your loan application to ensure your income has not been inaccurately reflected. This may allow you to qualify for the loan but may make it very hard for you to make your payments.

Dealers must disclose the true mileage of the car. An odometer statement should be given to you. If you suspect your car's odometer has been tampered with, contact the Department of Revenue, Dealer Licensing at 605-773-3541.

**If you do not receive your title from the seller within forty-five (45) days from date of purchase**, you should file a written complaint along with a copy of your purchase agreement to: Division of Motor Vehicles, 445 East Capitol Avenue, Pierre, SD 57501.

### **USED VEHICLE PURCHASES**

All used vehicles are sold "AS-IS" unless it still has factory warranty, or the dealer places an "In-House" warranty on the vehicle. If the dealer has an "In-House" warranty, you will want to make sure that it is put in writing for you. When the dealer offers a vehicle "as is," the box next to the "As Is - No Dealer Warranty" disclosure on the Buyers Guide must be checked. If the box is checked but the dealer promises to repair the vehicle or cancel the sale if you're not satisfied, make sure the promise is written on the Buyers Guide. Otherwise, you may have a hard time getting the dealer to make good on his word. When purchasing a used vehicle "AS-IS" the dealer is not responsible for any repairs on that vehicle after the sale, unless it is put into writing.

### **EXTENDED WARRANTY FOR VEHICLES**

When buying a new or used vehicle, your car dealer may encourage you to buy a service contract or extended warranty. These products are designed to cover mechanical breakdowns occurring after the expiration of the manufacturer's warranty. Be wary of such offers. When considering the purchase of an extended warranty, remember the following:

- Banks do **not** require that consumers purchase an extended warranty in order to be approved for a loan.
- Read all of the information provided to you about the warranty. Make sure you are aware of what is covered by the warranty and what is not. Some warranties

claim to be bumper-to-bumper coverage when in fact they are not. Also make sure that you are aware of what your obligations are going to be when it comes to the deductible and non-covered parts.

- Some extended warranties require a waiting period after the policy is purchased before coverage begins. For example, the policy may not cover any repairs for the first thirty (30) days or 3,000 miles whichever comes first.
- Most extended warranties are going to require normal maintenance to be performed on a mandated schedule. They may also require certain documentation to be presented when a claim is made. For example, the warranty company may require computer generated maintenance receipts with mandated information on it. If you do not have the required documents, your claim may be denied, and your policy may become void with no refund.

The decision to buy an extended warranty comes down to your comfort level. A vehicle is a big investment and extended warranties do not come cheap. Buyers need to be aware of all their options. Just remember that companies offering extended warranties are businesses and wouldn't offer the plans if they didn't make money on them.

### **PAYMENT PACKING**

This is where the dealer will get you to commit or focus on a monthly payment instead of the selling price of a vehicle. The salesman will often ask the buyer what kind of payment they can afford and then present an inflated offer that is supposed to act as a negotiating tactic. The salesperson hopes the individual will immediately agree to the first offer usually resulting in more profit for the dealership. Do your credit math to find out the real cost to amortize the loan. It generally has all four components stated. Look at the documents closely before signing anything. Pay attention to the following:

- Sales price
- Down Payment
- Hold on Trade (show less value than what the trade is really worth)
- Warranty & Back End Product Amounts
- Trade amount
- Interest Rate Agreed On
- Final Monthly Payment

Any additional items need to be disclosed up front before the sale is secured by the F&I Manager.

**Gap insurance** is an optional, add-on car insurance coverage that can help certain consumers cover the “gap” between the amount they owe on their car and the car's actual cash value (ACV) in the event of an accident. A car's actual cash value is the car's monetary value at the time of the accident, not the car's original price. Gap insurance coverage is quite versatile but be aware that it only covers damage to your vehicle, not other property or bodily injuries resulting from an accident. Be sure your loan amount is not over what your gap insurance would cover. Gap insurance is only used in the event of a total loss from a covered accident.



## **SOUTH DAKOTA NEW VEHICLE LEMON LAW – SDCL 32-6D**

Under South Dakota law, a “lemon” vehicle is one that has a single problem (or a series of problems) that “significantly impairs the use, value, or safety of the vehicle.” The problems must arise from routine use, not through acts of abuse or neglect. Also, the problems cannot be the result of an accident, or an alteration of the vehicle that is not authorized by the manufacturer.

**The Lemon Law pertains to new vehicles only.** The Lemon Law enables consumers to obtain a replacement vehicle or a full refund for their new car, light pickup, or motorcycle if certain criteria has been met. The first reported issue must be within the first twelve (12) months and 12,000 miles after the purchase of the vehicle.

**The following criteria would then need to be met for the Lemon Law to take effect:**


- The same nonconforming condition was subject to repair attempts four (4) or more times by the manufacturer, or its authorized dealers. At least one of which occurred during the Lemon Law rights period. PLUS a final attempt by the manufacturer, and the same nonconforming condition continues to exist; OR
- The motor vehicle was out of service and in the custody of the manufacturer or an authorized dealer due to repair attempts including the final attempt, one of which occurred during the Lemon Law rights period, for a cumulative total of thirty (30) calendar days, unless the repair could not be performed because of conditions beyond the control of the manufacturer or authorized dealers, such as war, invasion, strike flood, or other natural disaster.

**PLEASE NOTE:** You should request a repair order be generated every time you take your vehicle to the dealership for repairs of a nonconforming condition. If the service visit is not documented, it can't be used to establish the Lemon Law criteria.

## **LEASING**

When you lease, you pay to drive someone else's vehicle. Monthly payments for a lease may be lower than loan payments, but at the end of the lease, you do not own or have any equity in the car. To get the best deal, consider these general suggestions for leasing a car and these tips:

- Compare leasing versus owning. The Consumer Leasing Act requires leasing companies to give you information on monthly payments and other charges.
- Shop around to compare lease offers from multiple dealers.
- Find out what the down payment, or capitalized cost reduction, is for the lease. Consumers with better credit scores qualify for the low-down payments and rates that are advertised in commercials.
- Calculate the total cost over the life of the lease and include the down payment. A lease with a higher down payment and low monthly payments may be a better deal for you.

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- Consider using an independent agent rather than a car dealership; you might find a better deal. Most financial institutions that offer auto financing also offer leasing options.
  - Ask for details on wear and tear standards. Things that you regard as normal wear and tear could be billed as significant damage at the end of your lease.
  - Find out how many miles you can drive in a year. Most leases allow 12,000 to 15,000 miles a year. Expect a charge of 10 to 25 cents for each additional mile.
  - Check the manufacturer's warranty; it should cover the entire lease term and the number of miles you are likely to drive.
  - Ask the dealer what happens if you give up the car before the end of your lease. There may be extra fees for doing so.
  - Ask what happens if the car is involved in an accident.
  - Get all of the terms in writing. Everything included with the car should be listed on the lease to avoid your being charged for "missing" equipment later.

## **REPAIRS**

You need your car, and when you leave it in the shop for repairs, you can't help worrying about the cost and the quality of the work that's going on under the hood. Your best protection from fraud and faulty repair work is to consider the following:

- Find a reputable mechanic or repair shop - family, friends, or an independent consumer-rating organization are good sources. Look for shops that display various certifications that are current. You should also check out the shop's record with the Attorney General's Consumer Protection Division and the Better Business Bureau.
- You may also consider a shop that participates in the Motorist Assurance Program (MAP).
- You can also find out whether they have any mechanics that are ASE (Automotive Service Excellence) certified by going to <https://www.ase.com> and complete their form.
- Before you go to the repair shop consider taking it to an auto parts store who can run a computer diagnostic test on your vehicle, check the cost. You can then compare this to what you are told by the repair shop.
- Describe the symptoms. Don't try to diagnose the problem.
- Make it clear that work cannot begin until you have an estimate (in writing, preferably) and give your okay.
- Never sign a blank repair order. If the problem cannot be diagnosed on the spot, insist that the shop contact you for authorization once it has found the problem.
- Ask the shop to return the old parts to you.
- Follow the warranty instructions if a repair is covered under warranty.
- Get all repair warranties in writing.
- Keep copies of all paperwork.



**MAP** – The Motorist Assurance Program provides the consistent inspection, communication and automotive maintenance repair industry standards, that guide your auto repair professional in servicing and repairing your vehicle. All service facilities that participate in MAP will display a door decal indicating that they have agreed to adhere to the MAP Pledge of Assurance to Customers and the MAP Standards of Service.

They Promise to:

- Provide written recommendations for repairs.
- Provide a written estimate for the repairs.
- No work will be performed without prior authorization.
- Employ trained personnel in accordance with MAP Standards of Service.
- Inspect your vehicle based on the MAP Uniform Inspection and Communication Standards.
- Include a written limited warranty at no extra cost.
- Address any disputes in a timely, professional manner.

## **CAR SCAMS**

When it comes time to buy a car, consumers are more empowered than ever thanks in large part to the Internet and its offerings of car reviews, online vehicle history reports, detailed car listings, and more. The Internet has also, unfortunately, given scammers a new venue to find auto-buying victims.

*Below are just some of the more prevalent scams to be aware of.*



### **“Price Too Good to Be True” scam**

A prospective buyer sees an attractive-looking car (often a classic or exotic car) for a price well below market value. When the buyer contacts the seller, he or she is notified that the seller and the car is outside of the country and will arrange for shipment of the car upon receipt of payment, most often via wire transfer (such as Western Union) or bank-to-bank transfer (for very large payments). When the money is transferred and collected, the “seller” breaks contact, and the buyer is out the money.

### **Overpayment scam**

A legitimate seller posts a car for sale. He or she is then contacted by a prospective “buyer” (really a scammer) who offers to send a cashier’s check immediately plus additional funds to cover shipment of the car overseas. When the check arrives, the seller is instructed to deposit it and wire the overage to the “shipper.” When this is done and the wire transfer is picked up, the “buyer” breaks contact and the seller is left on the hook to their bank for the fraudulent check and the missing funds.

## Escrow scams

Many consumers are rightfully wary of sending large amounts of money to someone they've never met. Scammers frequently recommend the use of fake "escrow" services that will hold funds involved in the transaction until both parties are satisfied that the transaction has been completed. The scam seller will offer to ship the car, again that there is no risk of fraud due to the "escrow" service (purportedly eBay, PayPal, or another service). Once the money is transferred, contact is broken (or sometimes additional funds are requested to cover "unforeseen" events). In any case, the legitimate buyer never receives a car and loses their money.



## How to avoid car-buying scams

- NEVER wire money or use a bank-to-bank transfer in a transaction.
- Try to deal locally when buying or selling an automobile or other high-value merchandise.
- Do NOT sell or buy a car from someone who is unable or unwilling to meet you face to face.
- Never buy a car that you have not seen in real life and had inspected by a professional. A vehicle history report may also be a good idea, though scammers have been known to use fake vehicle identification numbers to defeat this countermeasure.
- WAIT until a check (personal, cashier's, certified, or otherwise) has cleared the bank to transfer title or the car itself. Funds being made available by a bank DOES NOT mean the check is not counterfeit. Clearing a check can take days or weeks depending on the financial institutions involved. Check with your bank about their processes for clearing checks.
- Never trust a seller or buyer who says that the transaction is GUARANTEED by eBay, Craigslist, PayPal, or other online marketplace. These sites explicitly DO NOT guarantee that people using their services are legitimate.
- Be wary of sellers or buyers who want to conclude a transaction as quickly as possible. Scammers want to get your money before you have time to think or have a professional examine the deal.
- Call the buyer or seller to establish phone contact. If the buyer or seller seems to neglect details agreed to via e-mail or is unable to answer questions about their location or the location of the automobile in question, it is likely to be a scam.
- ALWAYS trust your gut. If a deal feels "fishy" or sounds too good to be true, it probably is. Plenty of people use online classified ads to buy and sell cars every day. Many of these transactions are legitimate and go smoothly. Losing out on a "great" deal in order to work with someone you trust could save you big in avoiding a possible scam.

## **SOUTH DAKOTA NEW FARM MACHINERY LEMON LAW SDCL 37-37**

Tractors and combines are major investments for farmers, and they are correct to ask about warranties and return policies when they purchase new equipment. When you are spending an average of \$75,000 on a new tractor or over \$300,000 for a new combine, you want to be sure the quality is guaranteed.

The Farm Machinery Lemon Law became effective July 1, 2019, and applies to new farm machinery with a nonconforming condition. The following definitions may help you determine if your issue would qualify.

Nonconforming condition - any condition of new farm machinery that is not in conformity with the terms of any express warranty issued by the manufacturer to a consumer and that significantly impairs the use, value, or safety of the farm machinery and occurs or arises solely in the course of the ordinary use of the farm machinery, and that does not arise or occur as a result of abuse, neglect, modification, or alteration of the farm machinery not authorized by the manufacturer, nor from any accident or other damage to the farm machinery that occurs or arises after the farm machinery was delivered by an authorized dealer to the consumer;

Notice of a nonconforming condition - a written statement delivered to the manufacturer and that describes the farm machinery, the nonconforming condition, and all previous attempts to correct the nonconforming condition by identifying the person who made the attempt and the time the attempt was made.



In order to proceed with a claim a written statement must be delivered to the manufacturer that describes the farm machinery, the nonconforming condition, and all previous attempts to correct the nonconforming condition by identifying the person who made the attempts, and the time the attempt was made. For these reasons you should request a repair order be generated every time you take your new equipment to the dealership for repairs. If the service visit is not documented, it can't be used to establish the Lemon Law criteria.

The manufacturer or the dealer, working under the manufacturer's direction, and given notice of the nonconforming condition during the lemon law period, will make the necessary repairs to the farm machinery to remedy any nonconforming condition.

If unable to conform the farm machinery to the warranty specifications of the manufacturer, through its dealer, and at the option of the consumer, the manufacturer shall replace the farm machinery with comparable new farm machinery. Additionally, The customer shall be refunded all collateral charges including any excise tax, or the

manufacturer shall accept return of the farm machinery from the consumer and refund to the consumer the following:

- The full contract price including charges for dealer preparation, transportation charges, and installed options, plus the nonrefundable portions of extended warranties and service contracts;
- All collateral charges, including excise tax;
- All finance charges incurred by the consumer after the consumer first reported the nonconformity to the manufacturer or its authorized dealer; and
- Any incidental damages which shall include the reasonable cost of alternative farm machinery during the period that the consumer is without the use of the farm machinery because of the nonconforming condition.

In the event the manufacturer fails to perform the manufacturer's obligations imposed under this chapter the consumer may bring a civil action against the manufacturer. Prior to the commencement of any such action the manufacturer will be given one last attempt to correct the nonconforming condition. There are additional steps that must be met, and we would encourage you to visit the Attorney General's Consumer Protection Division website at [www.consumer.sd.gov](http://www.consumer.sd.gov) for specifics.

## UNCLAIMED PROPERTY

Unclaimed Property is unclaimed or abandoned intangible property. It represents a certain obligation a company is holding for another person or business. It includes checking and saving accounts, certificates of deposit, over payments, insurance checks, payroll checks, utility refunds, money orders, un-cashed checks, dividends, stocks, bonds, contents of safe deposit boxes, gift certificates and more.

**How does property become unclaimed or abandoned and how can I prevent that from happening to me?** Generally, if the property in question has not had any activity within a certain period of time, e.g., **three (3) years** for most properties, and the holder is unable to locate the property owner, it is considered abandoned and must be reported to the **Unclaimed Property Division of the State Treasurer's Office 1-866-357-2547 (in-state only) or 605-773-3379.**

## INVESTMENTS

Developing achievable saving and investing goals can help you on your road to freedom, security or affording the kind of lifestyle you want. Take the time to create a personal investment plan. Ask yourself these questions before you get started:

- **What do I want to accomplish?** Set specific investment goals. Be sure to include target dates and dollar amounts so you have a realistic idea of how long it will take to achieve your goals.



- **How much risk am I willing to take?** Are you willing to risk losing some or all of your money in order to earn higher returns, or will you accept lower returns for the peace of mind of knowing your initial investment is safer? Understanding how much risk you are comfortable taking determines your “risk tolerance,” which in turn informs which types of investment products are most suitable for you.
- **What type of investment is right for me?** Each investment comes with certain characteristics, risk levels and potential returns. Understanding your situation, risk tolerance, time horizon and specific goals will make it easier to choose the right investment for you.
- **Am I comfortable enough to do this on my own?** How much time are you willing to spend sorting through investment choices and keeping up with the markets? How confident are you in your investment knowledge and ability to carry out your decisions? If you need some guidance, you may want to seek the services of a financial service professional. Investing, especially with significant amounts of money, can be a complicated process. Many people seek the help of one or more financial services professionals.



## BEFORE You Invest

- **Take your time.** Using sales scripts, scam artists may create the impression that only a few shares or partnership units are left in a “sure-fire” investment. They try to convince you that you’ll miss out on a big opportunity if you don’t send them thousands of dollars by overnight courier or money transfer. But if you do, you *will* lose your money. They insist on money transfers because it is nearly impossible to trace the money or get it back.
- **Do some research.** It’s best to get an independent appraisal of the specific asset, business, or investment you’re considering. An appraisal offered by the promoters could be fake. Talk to the previous owners of an asset or business for its history but be aware that some dishonest promoters hire “shills” — people who lie about their success with an investment to convince you to buy it. Discuss all investment ideas or plans with an accountant, an attorney, or another advisor you know and trust.
- **Be skeptical.** Scam artists lie. Their success depends on having an airtight answer for everything. Don’t let appearances fool you. For a few dollars, anyone can incorporate an entity. Scammers can produce slick promotional materials or buy a toll-free number. Sales representatives should tell you the risk of particular investments. Honest risk disclosures may say you could lose your whole investment. Be particularly suspicious of sales pitches that play down risk or portray written risk disclosures as routine formalities required by the government. Later, when you try to recover the money you lost, dishonest promoters could use those same risk disclosures against you.



- **Find out who you're dealing with.** Can you find published information about the company in which you're investing, or someone you trust who has heard of the company? Do an internet search with the name of the company and words like *review*, *scam*, or *complaint*. Look through several pages of search results. It's wise to check with law enforcement agencies in the community where the promoters are located, but keep in mind that it may be too soon for the company's victims to realize they've been defrauded or to have filed complaints. Dishonest promoters often operate a particular scam for a short time and close down before they can be detected. Often, they reopen under another name, selling another investment scam. In addition, they may lie about their name or their business history, or even pay people to be "references."
- **Ask if the investment has a track record.** Scam artists often use news stories about the success of legitimate companies as bait by claiming that their "opportunity" is similar to that of a "hot" money-maker. Unfortunately, success stories of other companies in the field are irrelevant for your purposes. Get the track record of the company you're considering investing in and the background of the people promoting it.
- **Get details.** Legitimate companies account for investors' money at all times. Ask for written proof of how much of your money is going to the actual investment and how much is going to commissions, promoters' profits, and marketing costs. If most of your money is slated to cover expenses and costs, much less will be available to earn a return.

Investors should insist on working only with licensed brokers and investment advisers when dealing with both traditional and alternative securities investments and should quickly report any suspicion of investment fraud. For more information regarding investing, contact the **South Dakota Department of Labor & Regulation, Division of Securities, at 605-773-3563** – ask for Securities Regulation.

## LANDLORD/TENANT

Landlord-tenant disputes are a common occurrence in the renting process. The Attorney General's role in landlord-tenant disputes is limited. We are not authorized by law to provide legal advice or private legal services to individual citizens. We can, however, offer you general information to explain your rights regarding a landlord-tenant relationship that may help you.

The rights and duties of landlords and tenants in South Dakota are spelled out in federal law,



state statutes, local ordinances, safety and housing codes, common law, contract law and a number of court decisions. These responsibilities can vary from place to place around the state. South Dakota statutes can be found at the Attorney General's Consumer Protection Division's website [www.consumer.sd.gov](http://www.consumer.sd.gov) under the Resources tab select Lease of Real Property SDCL 43-32.

Tenants in federal housing and other forms of subsidized housing may have additional rights under federal law not covered in this summary. Those tenants should check their leases for further information regarding federal statutes or mandates.

In some areas local building inspectors are the authorities to contact if your complaint relates to the health or safety of the tenant(s). The name, address, and telephone number of those organizations can be found in your local telephone book under city, county or state government.

If you feel your grievance merits legal action, we suggest that you consult with a private attorney regarding the merit of your case. You also have the option of using small claims court. Information about this procedure is available from the Clerk of Courts office located at your county courthouse.

Many disputes could be avoided if landlords and tenants were aware of their rights and responsibilities to each other.

## UTILITIES

Power and telephone lines crisscross our neighborhoods, and water flows into our homes. In today's modern world, these utilities have become virtual necessities. Therefore, it is important to know where to find information when you have questions and whom to contact when there's a problem.

### Electricity

Most South Dakota consumers receive their electric power from a municipal, cooperative or investor-owned provider. If you have a quality of service or billing dispute with your electric provider, the first and best course of action is to contact the provider directly to resolve the problem. If that is unsuccessful, consumer affairs **representatives at the Public Utilities Commission (PUC)** may be able to assist you and your utility provider in reaching a resolution. PUC can be reached at **1-800-332-1782**.

For a listing of electric providers and their contact information, visit the PUC's website at [www.puc.sd.gov](http://www.puc.sd.gov) and select "Energy" and "Electric."

## Telecommunications

The South Dakota Public Utilities Commission can help consumers understand the elements of their landline telephone bill or aid when billing or quality of service disputes occur. Additionally, PUC representatives provide assistance to consumers who experience quality of service issues with their wireless telecommunications service.

Billing or contractual service issues with wireless telecommunications providers should be reported to the Attorney General's Office, Division of Consumer Protection, 1-800-300-1986 or 605-773-4400. Consumers may also contact the Federal Communications Commission at <http://www.fcc.gov/complaints> to report concerns or complaints about telecommunications providers.

## Water

Several types of organizations provide water service in South Dakota. If you have a concern about water quality, service, or billing, contact your water supplier directly to discuss these issues. You may also wish to contact the South Dakota Department of Environment and Natural Resources for water quality questions, 605-773-3754.

As a customer of a utility service provider, you have an obligation to pay for the services you use. There may be times when you have difficulty meeting those financial obligations.

Early and honest communication with the utility company is one of the best first steps you can make to work your way through the challenging situation. You should also be aware of the following helpful tools.

- **Low Income Energy Assistance Program.** Qualifying consumers may apply to the Office of Energy Assistance within the South Dakota Department of Social Services for the Low Income Energy Assistance Program (LIEAP) that provides payment for some home heating costs. Refer to the *Reference Guide* section for contact information.
- **Weatherization Assistance Program.** The South Dakota Department of Social Services' Weatherization Assistance Program helps qualifying residents make their homes more energy efficient through weatherization improvements. The improvements are completed by four different community action programs serving specific counties. Refer to the Reference Guide for contact information.



- **Lifeline and Link-Up Telephone Assistance Programs.** Most South Dakota telephone companies offer Lifeline and Link-Up programs for their qualifying customers. Lifeline offers a discount on basic local telephone service. Link-Up provides a discount on the installation or activation for new telephone service. Applicants must meet certain eligibility requirements. Enhanced Lifeline and Link-Up programs are available for residents of tribal lands.
- **Electric and Natural Gas Utility Budgeting Services.** Although not a discount program, balanced billing offered by electric or natural gas providers can be a valuable tool for managing your budget. With balanced billing, the utility company reviews your past bills to determine a monthly average. You are billed this average amount each month, regardless of how much energy you actually use. Some months your energy use is higher, some months it's lower. But you always pay the same amount. The company tracks monthly usage monitors your account and lets you know if adjustments to the balanced billing are necessary.

Utility information provided courtesy of the Public Utilities Commission.

**PLEASE NOTE:** If someone calls unexpectedly claiming to be from your utility company and demanding payment, don't panic and don't send any money. Hang up and call your utility company directly to verify your account balance and report the scam. It's also helpful to report this and other imposter scams to the Attorney General's Consumer Protection Division at 1-800-300-1986 or 605-773-4400, so they can issue a public warning.



## **Resources Guide (STATE)**

### **SD Office of Attorney General,**

#### **JASON RAVNSBORG**

1302 E Hwy 14 Ste 1  
Pierre SD 57501  
Phone: 605-773-3215  
Email: [atghelp@state.sd.us](mailto:atghelp@state.sd.us)  
Web: [www.atg.sd.gov](http://www.atg.sd.gov)

### **Division of Consumer Protection**

1302 E Hwy 14 Ste 3  
Pierre SD 57501  
Phone: 605-773-4400 or 1-800-300-1986  
Email: [consumerhelp@state.sd.us](mailto:consumerhelp@state.sd.us)  
Web: [www.consumer.sd.gov](http://www.consumer.sd.gov)

### **Medicaid Fraud Control Unit**

1302 E Hwy 14 Ste 4  
Pierre SD 57501  
Phone: 605-773-4102 or 1-888-497-3100  
Email: [atgmedicaidfraudhelp@state.sd.us](mailto:atgmedicaidfraudhelp@state.sd.us)

### **AARP South Dakota**

5101 S Nevada Ave Ste 150  
Sioux Falls SD 57108  
Phone: 1-866-542-8172  
Email: [sdaarp@aarp.com](mailto:sdaarp@aarp.com)  
Web: [www.aarp.org/sd](http://www.aarp.org/sd)

### **Better Business Bureau (BBB) – SD Office**

300 N Phillips Ave #100  
Sioux Falls SD 57104  
Phone: 605-271-2066 or 800-649-6814  
Email: [info@bbbsouthdakota.org](mailto:info@bbbsouthdakota.org)  
Web: [www.bbb.org](http://www.bbb.org)

### **Consumer Credit Counseling Services**

(Lutheran Social Services)  
705 E 41<sup>st</sup> St Ste 100  
Sioux Falls SD 57105  
Phone: 605-444-7500 or 1-800-568-2401

### **Consumer Credit Counseling Services of the Black Hills**

(Rushmore Consumer Credit Resource Center)  
2310 N Maple Ave  
Rapid City SD 57701  
Phone: 605-348-4550 or 1-800-568-6615

### **Energy Assistance**

910 E Sioux Ave  
Pierre SD 57501  
Phone: 1-800-233-8503  
TTY: 1-800-325-0778

### **Internal Revenue Service (IRS) – SD Office**

Phone: 605-330-4539  
Web: [www.irs.gov](http://www.irs.gov)

### **Legal Services & Credit Counseling Dakota Plains Legal Services**

Main Office  
PO Box 727  
Mission SD 57555-0727  
Phone: 605-856-4444  
Fax: 605-856-2075

### **Branch Offices**

PO Box 500  
Eagle Butte SD 57625-0500  
Phone: 605-964-2175

PO Box 20  
Fort Thompson SD 57339-0020  
Phone: 605-245-2341

PO Box 1989  
Pine Ridge SD 57770-1989  
Phone: 605-867-1020

528 Kansas City St Ste 1  
Rapid City SD 57709-1500  
Phone: 605-342-7171 or 1-800-742-8602

2009 E Hwy 10 C  
Sisseton SD 57262-2501  
Phone: 605-698-3971



PO Box 507  
Fort Yates ND 58538-0507  
Phone: 701-854-7204

**East River Legal Services**

Main Office 335 N Main Ave #200  
Sioux Falls SD 57104  
Phone: 605-336-9230 or 1-800-952-3015

**SD Department of Human Services**

3800 E Hwy 34 Hillsview Properties Plaza  
c/o 500 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-5990 or 1-800-265-9684  
TTY: 605-773-6412  
Fax: 605-773-5483  
Web: [www.dhs.sd.gov](http://www.dhs.sd.gov)

**Dakota at Home-Aging and Disability Resource Center**

3800 East Hwy 34 Hillsview Plaza  
Pierre SD 57501  
Phone: 1-833-663-9673  
Email: [DakotaAtHome@state.sd.us](mailto:DakotaAtHome@state.sd.us)

**SD Department of Labor & Regulation**

123 W. Missouri Ave.  
Pierre SD 57501-2291  
Phone: 605-773-3101  
Web: [www.dlr.sd.gov](http://www.dlr.sd.gov)

**Division of Banking**

1601 N Harrison Ave Ste 1  
Pierre SD 57501  
Phone: 605-773-3421  
Email: [banking@state.sd.us](mailto:banking@state.sd.us)

**Division of Insurance**

124 S. Euclid Ave  
Pierre SD 57501  
Phone: 605-773-3563  
Email: [insurance@state.sd.us](mailto:insurance@state.sd.us)

**Division of Securities**

124 S. Euclid Ave  
Pierre SD 57501  
Phone: 605-773-3563

**SD Department of Revenue**

445 E Captiol Ave  
Pierre SD 57501  
Phone: 605-773-3311  
Web: [www.dor.sd.gov](http://www.dor.sd.gov)

**Division of Property Tax**

445 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-3311 or 1-800-829-9188  
Email: [proptaxin@state.sd.us](mailto:proptaxin@state.sd.us)

**Division of Motor Vehicles - Dealer Licensing Office**

445 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-4416  
Email: [motorv@state.sd.us](mailto:motorv@state.sd.us)

**SD Department of Social Services**

700 Governors Dr  
Pierre SD 57501  
Phone: 605-773-3165  
Web: [www.dss.sd.gov](http://www.dss.sd.gov)

**SD Department of Veterans Affairs**

Soldiers & Sailors Memorial Bldg  
425 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-3269 or 1-877-579-0015  
Fax: 605-773-5380  
Web: [www.vetaffairs.sd.gov](http://www.vetaffairs.sd.gov)

**SD Dept of Health**

600 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-3361  
Web: [www.doh.sd.gov](http://www.doh.sd.gov)

**SD Board of Chiropractic Examiners**

407 Belmont Ave.  
Yankton, SD 57078  
Phone: 605-668-9017

**SD Board of Dentistry**

1351 North Harrison Ave  
Pierre SD 57501  
Phone: 605-224-1282  
Web: [www.sdboardofdentistry.com](http://www.sdboardofdentistry.com)

**SD Board of Examiners for Speech-Language Pathology**

810 N. Main St., Suite 298  
Spearfish, SD 57783  
Phone: 605-642-1600

**SD Board of Funeral Services**

810 N. Main St., Suite 298  
Spearfish, SD 57783  
Phone: 605-642-1600

**SD Board of Hearing Aid Dispensers & Audiologists**

810 N. Main St., Suite 298  
Spearfish, SD 57783  
Phone: 605-642-1600  
Email: [proflic@rushmore.com](mailto:proflic@rushmore.com)

**SD Board of Message Therapy**

1103 Park Hill Drive  
Rapid City, SD 57701  
Phone: 605-585-1708  
Email: [sdbombt@gmail.com](mailto:sdbombt@gmail.com)

**SD Board of Medical & Osteopathic Examiners**

101 N Main Ave Ste 301  
Sioux Falls SD 57104  
Phone: 605-367-7781  
Email: [sdbome@state.sd.us](mailto:sdbome@state.sd.us)

**SD Board of Nursing**

4305 S. Louise Avenue Suite 201  
Sioux Falls SD 57106-3315  
Phone: 605-362-2760

**SD Board of Nursing Facility Administrators**

PO Box #340  
1351 N Harrison Ave  
Pierre SD 57501  
Phone: 605-224-1721

**SD Board of Examiners in Optometry**

PO Box 513  
Wall, SD 57790  
Phone: 605-279-2244  
Email: [sdoptboard@goldenwest.net](mailto:sdoptboard@goldenwest.net)

**SD Board of Pharmacy**

4001 W. Valhalla Blvd, Suite 106  
Sioux Falls, SD 57106-3115  
Phone: 605-362-2737

**SD Board of Podiatry Examiners**

810 N. Main St., Suite 298  
Spearfish, SD 57783  
Phone: 605-642-1600  
Email: [profilc@rushmore.com](mailto:profilc@rushmore.com)

**SD Foundation for Medical Care**

2600 W 49th St Ste 300  
Sioux Falls, SD 57105  
Phone: 605-336-3505  
Web: [www.sdfmc.org](http://www.sdfmc.org)

**SD Lawyer Referral Services (SD State Bar Assoc)**

222 E Capitol Ave #3  
Pierre SD 57501  
Phone: 605-224-7554 or 1-800-952-2333

**SD Legislative Research Council**

500 E Capitol Ave  
Pierre SD 57501  
Phone: 605-773-3251  
Web: [www.legis.sd.gov](http://www.legis.sd.gov)

**SD Public Utilities Commission (PUC)**

500 E. Capitol Ave.  
Pierre, SD 57501-5070  
Phone: 605-773-3201  
Email: [pucconsumerinfo@state.sd.us](mailto:pucconsumerinfo@state.sd.us)  
Web: [www.puc.sd.gov](http://www.puc.sd.gov)

**National Do Not Call Registry**

1-888-382-1222  
Web: [www.donotcall.gov](http://www.donotcall.gov)

**SD Retirement System**

PO Box 1098  
Pierre SD 57501-1098  
Phone: 605-773-3731 or 1-888-605-SDRS (7377)

**SD State Treasurer**

500 E Capitol Ave  
Pierre SD 57501-5070  
Phone: 605-773-3378  
Web: [www.sdtreasurer.gov](http://www.sdtreasurer.gov)

**SD Unclaimed Property**

500 E Capitol Ave  
Pierre SD 57501-5070  
Phone: 605-773-3379

**SD Secretary of State**

500 E Capitol Ave Ste 204  
Pierre SD 57501-5070  
Phone: 605-773-3537  
Email: [sdsos@state.sd.us](mailto:sdsos@state.sd.us)  
Web: [www.sdsos.gov](http://www.sdsos.gov)

**Senior Health Information & Insurance Education (SHINE)**

[www.shiine.net](http://www.shiine.net)

**Eastern South Dakota - Active Generations**

2300 W 46<sup>th</sup> St  
Sioux Falls SD 57105  
Phone: 1-800-536-8197 or 605-333-3314  
Email: [easternoffice@shiine.net](mailto:easternoffice@shiine.net)

**Central South Dakota SHINE**

2520 E Franklin St  
Pierre SD 57501  
Phone: 1-877-331-4834 or 605-494-0219  
Email: [centraloffice@shiine.net](mailto:centraloffice@shiine.net)

**Western South Dakota SHINE**

220 N Maple Ave, Ste 4  
Rapid City SD 57702  
Local: 1-877-286-9072 or 605-342-8635  
Email: [westernoffice@shiine.net](mailto:westernoffice@shiine.net)

**Weatherization Assistance****Inter-Lakes Community Action**

111 Van Eps Ave North  
Madison SD 57042-0268  
Phone: 605-256-6518 or 1-800-896-4105  
Counties Served: Brookings, Clark, Codington, Deuel, Grant, Hamlin, Kingsbury, Lake, McCook, Miner, Minnehaha, Moody.

**Rural Office of Community Services**

140 S Hwy 50  
Lake Andes SD 57356-0070  
Phone: 605-487-7634 or 1-800-793-3290  
Counties Served: Aurora, Bon Homme, Brule, Buffalo, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Jerauld, Jones, Lincoln, Lyman, Mellette, Sanborn, Todd, Tripp, Turner, Yankton, Union.

**Northeast South Dakota Community Action**

414 3<sup>rd</sup> Ave East  
Sisseton SD 57262-1551  
Phone: 605-698-7654 or 1-800-245-3895  
Counties Served: Beadle, Brown, Campbell, Day, Edmunds, Faulk, Hand, Hughes, Hyde, McPherson, Marshall, Potter, Roberts, Spink, Stanley, Sully, Walworth.

**Western South Dakota Community Action**

1844 Lombardy Drive  
Rapid City SD 57701-4130  
Phone: 605-348-1460 or 1-800-327-1703  
Counties Served: Bennett, Butte, Corson, Custer, Dewey, Fall River, Haakon, Harding, Jackson, Lawrence, Meade, Perkins, Shannon, Pennington, Ziebach.

**Resources Guide (FEDERAL)****American Resort Development Assoc (ADRA)**

1201 15th Street NW #400  
Washington DC 20005  
Phone: 202-371-6700  
Web: [www.arda.org](http://www.arda.org)

**Annual Credit Report**

PO Box 105281  
Atlanta GA 30348-5281  
Phone: 1-877-322-8228  
Web: [www.annualcreditreport.com](http://www.annualcreditreport.com)

**Equifax**

PO Box 105069  
Atlanta GA 30348-5069  
1-888-548-7878

**Experian**

PO Box 4500  
Allen TX 75013  
1-888-397-3742  
Web: [www.experian.com](http://www.experian.com)

**TransUnion**

PO Box 160  
Woodlyn PA 19094  
1-800-916-8800  
Web: [www.transunion.com](http://www.transunion.com)

**Consumer Financial Protection Bureau**

1700 G St NW  
Washington, DC 20552  
Phone: 855-411-2372  
Web: [www.consumerfinance.gov](http://www.consumerfinance.gov)

**Consumer Product Safety Commission (CPSC)**

4330 East West Hwy  
Bethesda, MD 20814  
Phone: 800-638-2772  
Web: [www.cpsc.gov](http://www.cpsc.gov)

**Do Not Call Registry**

1-888-382-1222  
Web: [www.sddnotcall.com](http://www.sddnotcall.com)

**Federal Communications Commission**

445 12<sup>th</sup> Street SW  
Washington, DC 20554  
Phone: 1-888-225-5322  
Web: [www.fcc.gov](http://www.fcc.gov)

**Federal Trade Commission (FTC)**

600 Pennsylvania Ave NW  
Washington DC 20580  
Phone: 877-382-4357  
Web: [www.ftc.gov](http://www.ftc.gov)

**Food & Drug Administration (FDA)**

10903 New Hampshire Ave  
Silver Spring MD 20993-0002  
Phone: 1-888-463-6332  
Web: [www.fda.gov](http://www.fda.gov)

**Food & Drug Administration (FDA)**

10903 New Hampshire Ave  
Silver Spring MD 20993-0002  
Phone: 1-888-463-6332  
Web: [www.fda.gov](http://www.fda.gov)

**Medicare**

Centers for Medicare & Medicaid Services  
7500 Security Blvd  
Baltimore MD 21244-1850  
Phone: 1-800-MEDICARE (1-800-633-4227) TTY/TDD 1-877-486-2048  
Web: [www.medicare.gov](http://www.medicare.gov)

**SD Foundation for Medical Care**

2600 W 49th St Ste 300  
Sioux Falls, SD 57105  
Phone: 605-336-3505  
Web: [www.sdfmc.org](http://www.sdfmc.org)

**National Fraud Information Center (NFIC)**

National Consumers League  
1701 K Street, NW, Suite 1200  
Washington, DC 20006  
Phone: 1-800-876-7060 or 202-835-3323  
Email: [info@nclnet.org](mailto:info@nclnet.org)  
Web: [www.fraud.org](http://www.fraud.org)

**OPT OUT – Direct Mailing Lists**

DMAchoice  
Direct Marketing Association  
PO Box 643  
Carmel, NY 10512  
Web: [www.dmaconsumers.org/](http://www.dmaconsumers.org/)



**Social Security Administration**

Office of Public Inquiries  
1100 West High Rise  
6401 Security Blvd  
Baltimore MD 21235  
1-800-772-1213 (TTY 1-800-325-0778)  
Web: [www.ssa.gov](http://www.ssa.gov)

**Social Security Aberdeen Office**

115 4th Ave SE  
Room 111 Federal Bldg  
Aberdeen SD 57401  
Phone: 1-855-278-4196

**Social Security Huron Office**

200 4th Street SW  
Rm 105 Federal Bldg  
Huron SD 57350  
Phone: 1-866-563-4604

**Social Security Pierre Office**

225 S Pierre St  
2 Floor Federal Bldg  
Pierre SD 57501  
Phone: 605-224-2137

**Social Security Rapid City Office**

2200 N Maple Ave #301  
Rapid City SD 57701  
Phone: 800-772-1213

**Social Security Sioux Falls Office**

5021 S Nevada Ave  
Sioux Falls SD 57108  
Phone: 1-877-274-5421

**Social Security Watertown Office**

514 Jenson Ave  
Watertown SD 57201  
Phone: 1-888-737-1763

**Social Security Yankton Office**

121 W 3rd St Ste 101  
Yankton SD 57078  
Phone: 1-877-405-3522

**Transportation Security Administration**

601 12<sup>th</sup> Street S  
Arlington, VA 20598  
Phone: 855-347-8371  
Web: [www.tsa.gov](http://www.tsa.gov)

**United States Department of Housing  
and Urban Development**

451 7<sup>th</sup> Street SW Room 5204  
Washington, DC 20410  
Phone: 800-347-3735 or Toll Free: 1-800-  
669-9777  
Web: [www.hud.gov](http://www.hud.gov)

**US Copyright Office**

101 Independence Ave SE  
Washington DC 20559-6000  
Phone: 202-707-3000 or 1-877-476-0778  
Web: [www.copyright.gov](http://www.copyright.gov)

**US Department of Health & Human  
Services**

200 Independence Ave SW  
Washington DC 20201  
Phone: 202-690-7000 or 1-888-275-4772  
Web: [www.hhs.gov](http://www.hhs.gov)

**US Department of Housing & Urban  
Development (HUD)**

330 C ST SW  
Washington DC 20410  
Phone: 202-708-1112 (TTY 202-708-  
1455)  
Web: [www.hud.gov](http://www.hud.gov)

**US Department of Veteran Affairs**

810 Vermont Ave, NW  
Washington, DC 20420  
Phone: 1-800-829-1000  
Web: [www.usa.gov](http://www.usa.gov)





**US Patent & Trademark Office**

Customer Service Window, Mail Stop  
(see website for "Mail Stop" number)  
Randolph Bldg  
600 Dulany St  
Alexandria VA 22314  
Phone: 571-272-1000 or 1-800-786-9199  
Web: [www.uspto.gov](http://www.uspto.gov)

**Internal Revenue Service (IRS)**

1-800-829-1040  
TTY: 1-800-829-4059  
Make Appointment 1-844-545-5640

**Local Office – Aberdeen**

115 4th Ave SE  
Aberdeen SD 57401  
(605) 377-1649

**Local Office – Rapid City**

515 9th St  
Rapid City SD 57701  
(605) 348-2006

**Local Office – Sioux Falls**

1720 S Southeastern Ave  
Sioux Falls SD 57103  
(605) 782-8279

**Tax Payer Advocate Services**

(605) 377-1600 (Aberdeen ONLY)  
1-877-777-4778





# NOTES

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*The Division of Consumer is your resource for important consumer information. We hope you have found this book useful, and we encourage you to contact our office before you act on what appears to be a good deal or an urgent call requiring your immediate attention. We are here to help you.*

*Your Consumer Protection Staff*

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## **DISCLAIMER**

THIS HANDBOOK IS FOR INFORMATIONAL PURPOSES AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR AS THE POLICY OF THE STATE OF SOUTH DAKOTA. IF YOU NEED ADVICE ON A PARTICULAR ISSUE, YOU SHOULD CONSULT AN ATTORNEY OR OTHER EXPERT. COPIES OF THIS HANDBOOK WERE PRINTED BY THE SD ATTORNEY GENERAL'S OFFICE AT THE COST OF \$1.835 PER HANDBOOK.



## FREE CREDIT REPORT CHECK-OFF LIST

Consumers are able to obtain one copy of their credit report from each of the three credit reporting agencies each year. Consumers may want to request these reports from each of the reporting agencies at the same time, or stagger the requests throughout the year. (SEE PAGE 6 FOR MORE INFORMATION)

YEAR: \_\_\_\_\_  
Equifax Date Ordered \_\_\_\_\_  
Experian Date Ordered \_\_\_\_\_  
TransUnion Date Ordered \_\_\_\_\_

YEAR: \_\_\_\_\_  
Equifax Date Ordered \_\_\_\_\_  
Experian Date Ordered \_\_\_\_\_  
TransUnion Date Ordered \_\_\_\_\_

YEAR: \_\_\_\_\_  
Equifax Date Ordered \_\_\_\_\_  
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Experian Date Ordered \_\_\_\_\_  
TransUnion Date Ordered \_\_\_\_\_

YEAR: \_\_\_\_\_  
Equifax Date Ordered \_\_\_\_\_  
Experian Date Ordered \_\_\_\_\_  
TransUnion Date Ordered \_\_\_\_\_

## DATE OF REGISTRY

**OPT-OUT**  
**Pre-Approved Credit Cards:**  
\_\_\_\_\_ (renew every 5 years)

**Direct Marketers:**  
**FOR MAIL:**  
\_\_\_\_\_ (renew every 5 years)

**FOR E-MAIL:**  
\_\_\_\_\_ (renew every 5 years)

**DO NOT CALL REGISTRY**  
\_\_\_\_\_ (no renewal required)

**SECURITY FREEZE**  
\_\_\_\_\_ (renew every 7 years)



*South Dakota*

# CONSUMER HANDBOOK

**OFFICE OF ATTORNEY GENERAL**

1302 E Hwy. 14, Ste. # 3 | Pierre, SD 57501

(605) 773-4400 | 800-300-1986 (in-state)

[www.consumer.sd.gov](http://www.consumer.sd.gov) | [consumerhelp@state.sd.us](mailto:consumerhelp@state.sd.us)