

Consumer Information Disposal Rules

From the Washington State Bar Association...

Your organization or business may have guidelines for the retention of client files. When the time comes to dispose of these files, it is recommended that you check with your state or province as well as federal law.

On June 1, 2005, a new law in the U.S. took effect that regulates the disposal of consumer information. The Fair and Accurate Credit Transaction Act (FACTA) Disposal Rule (the Rule) requires any person who maintains or possesses "consumer information" for a business purpose to properly dispose of such information by taking "reasonable measures" to protect against unauthorized access to or use of the information in connection with its disposal. The Rule defines "consumer information" as any information about an individual that is in or derived from a consumer report.

"Reasonable measures" for disposal under the Rule are 1) burning, pulverizing, or shredding; 2) erasing or physically destroying electronic media; and 3) entering into a contract with a document disposal service. Please see <http://www.ftc.gov/bcp/online/pubs/alerts/disposalalrt.htm>

In addition to properly handling the disposal of such records in their own offices, lawyers who advise businesses that either use consumer information in their everyday operations (such as banks, lenders, insurers, auto dealers, realtors, mortgage brokers and employers) or store consumer reports and information (such as record management and information management companies) need to counsel their clients to implement appropriate document destruction policies to comply with the new Rule. The FTC refers to compliance guidelines that have been developed by the respective associations of these businesses.