

# Protecting Your Bank Account from Unauthorized and Recurring Payments

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November 24, 2015

National Elder Rights Training Project for the National Legal Resource Center.  
Sponsorship for this Webinar is provided by the National Consumer Law Center and a grant from the Administration for Community Living.



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- Everyone will be muted during this presentation
- This training is being recorded



# Webinar Tips

- Questions? Type it in the Q&A function and we will relay it to the speaker(s)
- If you are having technical problems, please use the Q&A function for help and I will assist you
- There will be an evaluation survey immediately following the webinar. We ask that you take a few minutes to fill this out.
- We will be emailing you a link to our website to download this PowerPoint and watch the recording



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# This webinar today is brought to you as part of the National Legal Resource Center

- NLRC is a Partnership of five national organizations providing legal support to aging advocates
- On this website you can request technical assistance, case consultation and training
- <http://nlrc.acl.gov>

The screenshot shows the NLRC website homepage. At the top, the NLRC logo is displayed alongside the American Council on Aging (ACA) logo. A search bar is located in the top right corner. Below the navigation menu, there are several featured sections:

- Library:** A vertical list of resources including Legal Service Development, Email Discussion List, Aging Network, Find Legal Help, Legal Training, Case Consultation, and Elder Abuse Prevention.
- Supported Decision-Making:** A large graphic featuring a close-up of hands clasped together, with the text "9 Supported Decision-Making" and "Find resources on empowering all persons in decision-making".
- Latest News & Events:** A list of recent articles and reports, such as "Knowing and Improving Your Credit Score" and "HHS Research Beliefs on Elder Abuse Prevention Intervention Demonstration Grants".
- Connect with NLRC:** A section showing tweets from the NLRC Twitter account, including one about software for life ease and another about CERA's focus on innovation.

**Join us for FREE Webinar Series:  
Elder Abuse Prevention & Response**

**These webinars run 2015-2016. Please see more at [www.nclc.org](http://www.nclc.org)**

- Experts from across the nation discussing legal responses to elder abuse
- Series of free webinars for elder advocates
- Sept. 2015 – June 2016
- Sign up at <http://www.nclc.org/webinars.html>
- The Role of Long Term Care Ombudsman and Legal Aid Attorneys
- The Role of Adult Protective Services, Legal Aid, and Protection and Advocacy
- Representing Clients in Guardianship Actions: Winning the Case for Supported Decision Making
- Restoring Public Benefits Compromised by Elder Financial Exploitation
- Legal Remedies to Financial Exploitation: "Let's Get Grandpa's House Back!"
- Recovering Assets Lost to Financial Abuse: "Can I get their Money Back?"
- Transactional Capacity and Vulnerability to Elder Abuse





## Presenter – Lauren Saunders

- Lauren Saunders is Associate Director at NCLC's Washington, DC office and serves as its Managing Attorney. She directs NCLC's federal legislative and regulatory work. Lauren regularly speaks, writes and testifies in areas including the Consumer Financial Protection Bureau, prepaid cards, mobile payments, small dollar loans, credit cards, and bank accounts.
- Lauren graduated from Harvard Law School and holds a Masters in Public Policy from Harvard's Kennedy School of Government and a BA from Stanford University.





# Protecting Your Bank Account From Unauthorized and Recurring Charges

# I will cover:

- How unauthorized charges happen.
- Your legal rights if hit with unauthorized charges.
- Differences between credit cards, debit cards and prepaid cards.
- Your rights to stop recurring charges.
- How to prevent unauthorized and unwanted recurring charges.



# Payment Systems I'll Cover

- Credit, debit and prepaid cards.
- Electronic (ACH) payments.

## ***Not:***

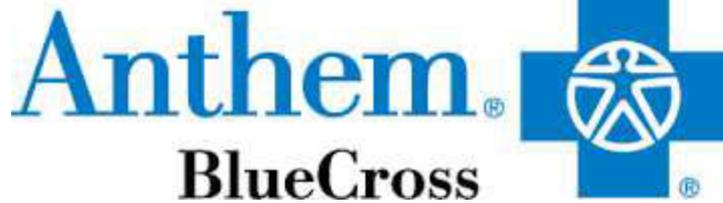
- Checks
- Remotely created checks  
(Different laws)



# How Did They Get Into My Account??



# Data Breaches



# ATM Skimmers



# Email and Phone Phishing Scams

## What does a phishing email message look like?

Here is an example of what a phishing scam in an email message might look like.

*Hello!*

*As part of our security measures, we regularly screen activity in the Facebook system. We recently contacted you after noticing an issue on your account.*

Spelling

*Our system detected unusual Copyrights activity linked to your Facebook account , please follow the link bellow to fill the Copyright Law form:*

*[http://www.facebook.com/application\\_form](http://www.facebook.com/application_form)*

Links in email

*Note: If you dont fill the application your account will be permanently blocked.*

Threats

*Regards,*

*Facebook Copyrights Department*

Popular company

Source: Microsoft



# Lead Generator Websites

Google

bing

i need money to pay rent



**Bad Credit Loans**  
[www.speedloanusa.com/](http://www.speedloanusa.com/)  
Bad Credit OK  
\$100 to \$2500. Faster Approval

**2-Minute Payday Loans - \$100-\$1000**  
Approved in 2 Minutes  
Ad - [QuickerCash.com](http://QuickerCash.com)  
\$100-\$1000 Approved in 2 Minutes.  
Deposited Directly in Your Bank!

need loan fast



**Fast Cash \$500-\$5,000**  
**OneClickLoan.com**  
Ad [www.oneclickloan.com/](http://www.oneclickloan.com/)  
Instant Approval. Bad Credit OK.  
Get Cash In A Click Up To \$5,000.

**Fast 2-Min Payday Loans - Payday Loans Approved Instantly!**  
Ad - [www.FlashPayday.com](http://www.FlashPayday.com)  
**Payday Loans** Approved Instantly!  
Deposited Straight in Your Bank.

Source: Upturn, "Led Astray"





### Need a Loan?

Loans \$500 or smaller have 90% more chance of success.

Loan Amount:

Zip Code:

First Name:

Last Name:

Email Address:

**GET CASH NOW**

By submitting your information you understand and agree to our [Privacy Policy](#) and [Terms of Use](#)

#### Secure

Apply online assured that your information remains secure and confidential.

#### Best Credit OK

No fees to apply, no faxing, and no obligation to accept loan terms after applying.

#### Get Cash Fast

Agree to your lender's terms and have cash deposited into your account!

A landing page for a payday lead generator ([paydaysuccess.com](http://paydaysuccess.com)).

Source: Upturn, "Led Astray"



# Telemarketing and Phone Scams



Source: FBI

**The Grandparent Scam**  
Don't Let It Happen to You



# Online Shopping: Negative Option or Fine Print



Card Type

Card Number

CVV  [What is CVV?](#)

Card Expiration  /

Name On Card

*Pre-checked box*  I accept the terms and privacy policy.

**RUSH MY ORDER!**

**30 DAY MONEY BACK GUARANTEE**

We offer a 12-day free trial of the Utופן Acac with enrollment in our home delivery program which begins 2 days after you place your order to allow for shipping. You can try a 30-day supply risk-free to determine for yourself if this product is right for you. When you submit your order, you agree to pay the non-refundable, shipping & handling charge of \$1.99 for your free trial bottle. If you find that the product is right for you, we will automatically charge the credit card you used to order your free trial \$89.99 on the 15th day. Further, we will ship you an additional 30-day supply of Utופן Acac on the 31st day after you place your order and every thirty (30) days thereafter until you decide to cancel these continuing shipments. No further notice will be sent to you. Upon shipment each thirty (30) days, we will automatically charge the credit card you used to order your free trial bottle the price of \$89.99 per bottle plus \$4.95 shipping & handling for a total monthly charge of \$74.94 per month, plus any taxes that apply. You may cancel at any time by notifying us at 1-800-566-1212 or email [cancel@utופן.com](mailto:cancel@utופן.com). If you are at all unsatisfied with our program, product or service we offer a 30-day money back guarantee.

*After 30 days, the company will charge your credit card \$74.94 per month until you cancel the monthly shipments.*



# Lost/Stolen Cards and Card Numbers



# What about Chip Cards?

- Don't leave your card in the machine!
- Online card fraud expected to increase.



So what are my  
rights if I'm hit  
with unauthorized  
charges??



# Bank accounts:

## Debit card lost or stolen

- Report it w/in 2 biz days of noticing:
  - Max liability: \$50
  - Card network “zero liability” rules probably cover the \$50 unless ATM, or PIN used.
- Report later:
  - Up to \$50 in losses in the first 2 days
  - + Up to \$500 in later charges
  - + Possibly more for charges after 60 days



# Card not lost/stolen: Unauthorized charges on bank statement

- Report w/in 60 days of statement:
  - **No** liability.
- Report later:
  - **No** liability for charges in the first 60 days.
  - Liable for subsequent charges that could have been prevented with timely notice.



# Bank's Duties

- Investigate in 10 days, or temporarily re-credit account and take up to 45 days.
- Must report findings to consumer.
- Burden on bank to show charge was authorized; consumer negligence irrelevant.
- If authorized, bank may re-debit account, but can't bounce other items for 5 biz days.



# Prepaid Cards

- Payroll cards and government benefit prepaid cards (not EBT cards) protected by similar rules.



- CFPB will expand rules to all prepaid cards next year.
- Most cards voluntarily follow payroll rules now.



# Prepaid/Payroll Card Protections

- Same rules if card lost/stolen
- Same 60-day deadline for reporting unauthorized charges if received a statement or electronically accessed account (90 days for the Direct Express Card)
- May have 120 days if never got statement/ accessed account
- Liable only for preventable charges occurring after the deadline



# Credit Cards

- Report lost/stolen cards, unauthorized charges promptly. No legal deadline.
- Federal law: Not liable for more than \$50 in unauthorized charges.
- Card network policies will waive that \$50.
- No liability for charges on an account you did not open/authorize.



# Preauthorized Recurring Charges

- You authorized recurring debits (through account & routing # or debit card #)
  - Electric bill
  - Rent/mortgage
  - Credit card payment
  - Gym
  - Magazine/internet subscription
  - Online payday installment loan
- If authorization is not clear and readily understandable, it is unauthorized.



# Auto repayment of credit

- Lender cannot require preauthorized recurring electronic repayment.
- Can offer a discounted interest rate or other cost-related incentive.
- If the loan is illegal, the contract and the authorization for payment may be void.
  - Unauthorized charge rules would apply.
  - Same for tribal payday loans.



# Right to Revoke Authorization v. Right to Stop Payment

- Revocation of authorization: Directed at payee. Makes payment unauthorized.
- Stop payment order: Directed at bank. Blocks the charge.
- Neither impacts whether the consumer still owes the money, just whether it can be taken out of the account.



# Right to Revoke Payee's Authorization for Recurring Charges

- CFPB: “A consumer may decide after authorizing a merchant or lender to make withdrawals from their account that they want to revoke authorization.”
  - Sample revocation letter on CFPB website.
  - Sample letters to bank that authorization revoked.
- For ACH payments, the right and how to revoke must be in the authorization.
- No specific notice period.



# Right to Direct Bank to Stop Payment

- Bank must stop recurring payments if give notice orally or in writing 3 biz days before.
- Bank may require written confirmation, copy of revocation sent to payee, w/in 14 days.
- Must stop all future payments.
- Bank must not wait for the payee to stop debiting.
- Bank may charge a stop payment fee.



[HOME](#) > [BLOG](#) > YOU HAVE PROTECTIONS WHEN IT COMES TO AUTOMATIC DEBIT PAYMENTS FROM YOUR ACCOUNT

NOV 23 2015



# You have protections when it comes to automatic debit payments from your account

BY [GAIL HILLEBRAND AND DAVIDA FARRAR](#)



# Prepaid and Credit Cards

- Most don't permit preauthorized ACH payments except payday lender prepaid cards. May permit recurring card charges.
- Same rules generally apply as for bank accounts.
- Credit cards: No specific rules, but can challenge charge as unauthorized if you revoked authorization.



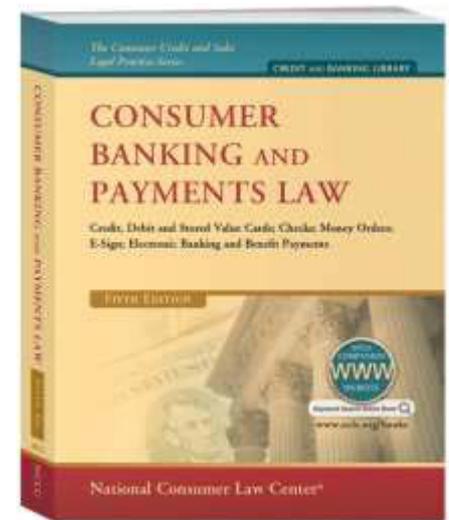
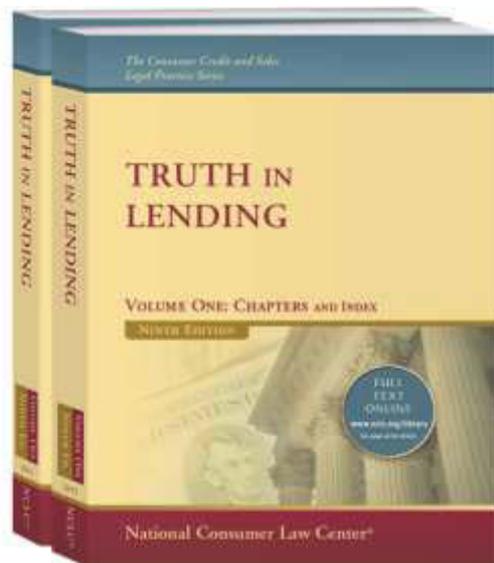
# For the Lawyers

- Electronic Fund Transfer Act, 15 U.S.C. §§ 1693e, 1693f, 1693g
  - Regulation E, 12 CFR §§ 1005.6, .10, .11
- Truth in Lending Act, 15 USC § 1643
  - Regulation Z, 12 CFR § 1026.12(b), .13
- Regs on CFPB website:  
[www.consumerfinance.gov/eregulations/](http://www.consumerfinance.gov/eregulations/)



# NCLC Legal Treatises

- Consumer Banking & Payments Law  
§§5.4, 5.8
- Truth in Lending §§ 7.9, 7.10



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- Good through Wed. Nov. 25, 2 pm eastern



# Tips for Avoiding Problems with Preauthorized Payments

- Use your bank's bill payment website instead.
- Only authorize trusted companies.
- Keep track of preauthorized payments.
- Preauthorized credit card payments may be easier to revoke/contest than bank account debits.



# Tips for Preventing Unauthorized Charges

- Use secure passwords, different for different accounts.
- Review your statements regularly.
- Don't write your PIN on your debit card.
- Don't provide personal info in response to an email or phone call.



# Victim of a Data Breach?

- Consider placing a freeze on your credit report
  - Contact Experian, Equifax and TransUnion
- Review your credit report for free at [annualcreditreport.com](https://annualcreditreport.com)
- File your tax returns early
- More tips: [Identitytheft.gov](https://Identitytheft.gov) (FTC)



# Having Problems?

- File complaint with Consumer Financial Protection Bureau: [ConsumerFinance.gov](http://ConsumerFinance.gov)
- Report fraud to your state attorney general or the FTC ([FTC.gov](http://FTC.gov))



# Questions?



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- Thank you to our speaker!