
By: **Senator Forehand**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Freezes on Credit Reports and Protection of**
3 **Personal Information**

4 FOR the purpose of authorizing a consumer to elect to place a security freeze on the
5 consumer's credit report; establishing procedures for requesting a security
6 freeze; requiring a consumer reporting agency to place a security freeze on a
7 consumer's credit report within a certain number of business days after a
8 request is made and to take certain actions within a certain number of business
9 days after placing a security freeze on a consumer's credit report; providing that
10 while a security freeze is in place, a consumer's credit report and any
11 information in the consumer's credit report may not be released without certain
12 authorization of the consumer; establishing procedures for requesting a security
13 freeze to be lifted temporarily or removed; requiring a consumer reporting
14 agency to temporarily lift or remove a security freeze within a certain number of
15 business days after receiving a request from a consumer; prohibiting a
16 consumer reporting agency from changing certain information in a consumer
17 report if a security freeze is in place without sending a certain confirmation to
18 the consumer within a certain time period; authorizing a consumer reporting
19 agency to charge certain fees; requiring a consumer reporting agency to give
20 certain notices to a consumer at certain times; providing that certain entities
21 are not required to place a security freeze in a consumer report; requiring a
22 certain business to destroy or arrange for the destruction of a customer's records
23 that contain certain personal information of the customer in a certain manner;
24 requiring a certain business that owns or licenses certain personal information
25 of an individual residing in the State to implement and maintain certain
26 security procedures and practices; requiring certain businesses that own,
27 license, or maintain certain records that include certain personal information of
28 an individual residing in the State to notify certain persons of a breach of the
29 security of a system under certain circumstances; specifying the time at which
30 notification must be given; authorizing notification to be given in a certain
31 manner; providing that a waiver of certain provisions of this Act is contrary to
32 public policy and is void and unenforceable; providing that compliance with
33 certain provisions of this Act does not relieve a certain business from a duty to
34 comply with certain other requirements of federal, State, or local law; providing
35 certain penalties for a certain violation of a security freeze by a consumer

1 reporting agency; providing that a violation of certain provisions of this Act is an
2 unfair or deceptive trade practice within the meaning of the Maryland
3 Consumer Protection Act and is subject to certain enforcement and penalty
4 provisions; establishing a private right of action for an individual affected by a
5 violation of certain provisions of this Act; providing for the application of certain
6 provisions of this Act; defining certain terms; and generally relating to security
7 freezes on consumer reports and the protection of personal information owned or
8 leased by businesses or included in records owned, licensed, or maintained by
9 businesses.

10 BY adding to

11 Article - Commercial Law
12 Section 14-1202.1; and 14-3501 through 14-3505, inclusive, to be under the
13 new subtitle "Subtitle 35. Security Breach of Personal Information"
14 Annotated Code of Maryland
15 (2005 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Commercial Law**

19 14-1202.1.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (2) "ACCOUNT REVIEW" INCLUDES ACTIVITIES RELATED TO ACCOUNT
23 MAINTENANCE, ACCOUNT MONITORING, CREDIT LINE INCREASES, AND ACCOUNT
24 UPGRADES AND ENHANCEMENTS.

25 (3) "SECURITY FREEZE" MEANS A NOTICE PLACED IN A CONSUMER'S
26 FILE AT THE REQUEST OF THE CONSUMER THAT PROHIBITS A CONSUMER
27 REPORTING AGENCY FROM RELEASING THE CONSUMER'S CREDIT REPORT OR ANY
28 INFORMATION IN THE CONSUMER'S CREDIT REPORT WITHOUT THE EXPRESS
29 AUTHORIZATION OF THE CONSUMER.

30 (B) THIS SECTION DOES NOT APPLY TO THE USE OF A CONSUMER'S CREDIT
31 REPORT BY:

32 (1) A PERSON, OR A SUBSIDIARY, AFFILIATE, AGENT, OR ASSIGNEE OF
33 THE PERSON, WITH WHICH THE CONSUMER HAS, OR PRIOR TO ASSIGNMENT HAD, AN
34 ACCOUNT, CONTRACT, OR DEBTOR-CREDITOR RELATIONSHIP, FOR THE PURPOSE OF
35 ACCOUNT REVIEW OR COLLECTING THE FINANCIAL OBLIGATION OWING FOR THE
36 ACCOUNT, CONTRACT, OR DEBT;

37 (2) A SUBSIDIARY, AFFILIATE, AGENT, ASSIGNEE, OR PROSPECTIVE
38 ASSIGNEE OF A PERSON THAT WAS GIVEN ACCESS TO THE CONSUMER'S CREDIT
39 REPORT UNDER SUBSECTION (E) OF THIS SECTION FOR THE PURPOSE OF

1 FACILITATING AN EXTENSION OF CREDIT TO THE CONSUMER OR ANOTHER
2 PERMISSIBLE USE;

3 (3) A PERSON ACTING IN ACCORDANCE WITH A COURT ORDER,
4 WARRANT, OR SUBPOENA;

5 (4) A UNIT OF STATE OR LOCAL GOVERNMENT THAT ADMINISTERS A
6 PROGRAM FOR ESTABLISHING AND ENFORCING CHILD SUPPORT OBLIGATIONS;

7 (5) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN
8 CONNECTION WITH A FRAUD INVESTIGATION CONDUCTED BY THE DEPARTMENT;

9 (6) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, THE
10 COMPTROLLER, OR ANY OTHER STATE OR LOCAL TAXING AUTHORITY IN
11 CONNECTION WITH AN INVESTIGATION CONDUCTED BY THE DEPARTMENT,
12 COMPTROLLER, OR TAXING AUTHORITY OR THE COLLECTION OF DELINQUENT
13 TAXES OR UNPAID COURT ORDERS BY THE DEPARTMENT, COMPTROLLER, OR TAXING
14 AUTHORITY;

15 (7) A PERSON ADMINISTERING A CREDIT FILE MONITORING
16 SUBSCRIPTION SERVICE TO WHICH THE CONSUMER HAS SUBSCRIBED; OR

17 (8) A PERSON PROVIDING THE CONSUMER WITH A COPY OF THE
18 CONSUMER'S CREDIT REPORT ON REQUEST OF THE CONSUMER.

19 (C) (1) A CONSUMER MAY ELECT TO PLACE A SECURITY FREEZE ON THE
20 CONSUMER'S CREDIT REPORT BY:

21 (I) WRITTEN REQUEST SENT BY CERTIFIED MAIL;

22 (II) TELEPHONE; OR

23 (III) ELECTRONIC MAIL IF A SECURE ELECTRONIC MAIL
24 CONNECTION IS MADE AVAILABLE BY THE CONSUMER REPORTING AGENCY.

25 (2) A CONSUMER REPORTING AGENCY SHALL REQUIRE A CONSUMER TO
26 PROVIDE PROPER IDENTIFICATION WHEN REQUESTING A SECURITY FREEZE.

27 (3) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY
28 FREEZE ON A CONSUMER'S CREDIT REPORT:

29 (I) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A WRITTEN OR
30 TELEPHONE REQUEST; AND

31 (II) WITHIN 3 BUSINESS DAYS AFTER RECEIVING AN ELECTRONIC
32 MAIL REQUEST.

33 (4) WITHIN 5 BUSINESS DAYS AFTER PLACING A SECURITY FREEZE ON A
34 CONSUMER'S CREDIT REPORT, THE CONSUMER REPORTING AGENCY SHALL:

1 (I) SEND A WRITTEN CONFIRMATION OF THE SECURITY FREEZE
2 TO THE CONSUMER;

3 (II) PROVIDE THE CONSUMER WITH A UNIQUE PERSONAL
4 IDENTIFICATION NUMBER OR PASSWORD TO BE USED BY THE CONSUMER WHEN
5 AUTHORIZING THE RELEASE OF THE CONSUMER'S CREDIT REPORT TO A SPECIFIC
6 PERSON OR FOR A SPECIFIC PERIOD OF TIME; AND

7 (III) PROVIDE THE CONSUMER WITH A WRITTEN STATEMENT OF
8 THE PROCEDURES FOR REQUESTING THE CONSUMER REPORTING AGENCY TO
9 REMOVE OR TEMPORARILY LIFT A SECURITY FREEZE.

10 (D) (1) WHILE A SECURITY FREEZE IS IN PLACE, A CONSUMER'S CREDIT
11 REPORT AND ANY INFORMATION IN THE CONSUMER'S CREDIT REPORT MAY NOT BE
12 RELEASED TO ANY PERSON WITHOUT THE EXPRESS PRIOR AUTHORIZATION OF THE
13 CONSUMER.

14 (2) A CONSUMER REPORTING AGENCY MAY ADVISE A PERSON THAT A
15 SECURITY FREEZE IS IN EFFECT WITH RESPECT TO A CONSUMER'S CREDIT REPORT.

16 (3) A CONSUMER REPORTING AGENCY MAY NOT STATE OR IMPLY TO
17 ANY PERSON THAT A SECURITY FREEZE ON A CONSUMER'S CREDIT REPORT
18 REFLECTS A NEGATIVE CREDIT SCORE, CREDIT HISTORY, OR CREDIT RATING.

19 (E) (1) IF A CONSUMER WANTS TO ALLOW THE CONSUMER'S CREDIT
20 REPORT TO BE ACCESSED BY A SPECIFIC PERSON OR FOR A SPECIFIC PERIOD OF
21 TIME WHILE A SECURITY FREEZE IS IN PLACE, THE CONSUMER SHALL:

22 (I) CONTACT THE CONSUMER REPORTING AGENCY BY CERTIFIED
23 MAIL, TELEPHONE, OR SECURE ELECTRONIC MAIL;

24 (II) REQUEST THAT THE SECURITY FREEZE BE TEMPORARILY
25 LIFTED; AND

26 (III) PROVIDE THE FOLLOWING TO THE CONSUMER REPORTING
27 AGENCY:

28 1. PROPER IDENTIFICATION;

29 2. THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR
30 PASSWORD PROVIDED TO THE CONSUMER UNDER SUBSECTION (C)(4)(II) OF THIS
31 SECTION; AND

32 3. THE PROPER INFORMATION REGARDING THE PERSON
33 THAT IS TO RECEIVE THE CREDIT REPORT OR THE TIME PERIOD DURING WHICH THE
34 CREDIT REPORT IS TO BE AVAILABLE TO USERS OF THE CREDIT REPORT.

35 (2) A CONSUMER REPORTING AGENCY SHALL COMPLY WITH A REQUEST
36 MADE UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 3 BUSINESS DAYS AFTER
37 RECEIVING THE REQUEST.

1 (3) A CONSUMER REPORTING AGENCY MAY DEVELOP PROCEDURES
2 INVOLVING THE USE OF TELEPHONE, FACSIMILE, THE INTERNET, ELECTRONIC
3 MAIL, OR OTHER ELECTRONIC MEDIA TO RECEIVE AND PROCESS, IN AN EXPEDITED
4 MANNER, A REQUEST FROM A CONSUMER TO TEMPORARILY LIFT A SECURITY
5 FREEZE ON THE CONSUMER'S CREDIT REPORT.

6 (F) IF, IN CONNECTION WITH AN APPLICATION FOR CREDIT OR FOR ANY
7 OTHER USE, A PERSON REQUESTS ACCESS TO A CONSUMER'S CREDIT REPORT WHILE
8 A SECURITY FREEZE IS IN PLACE AND THE CONSUMER DOES NOT AUTHORIZE
9 ACCESS TO THE CONSUMER'S CREDIT REPORT, THE PERSON MAY TREAT THE
10 APPLICATION AS INCOMPLETE.

11 (G) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
12 CONSUMER REPORTING AGENCY MAY REMOVE OR TEMPORARILY LIFT A SECURITY
13 FREEZE PLACED ON A CONSUMER'S CREDIT REPORT ONLY ON REQUEST OF THE
14 CONSUMER MADE UNDER SUBSECTION (E) OR (H) OF THIS SECTION.

15 (2) (I) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY
16 FREEZE PLACED ON A CONSUMER'S CREDIT REPORT IF PLACEMENT OF THE
17 SECURITY FREEZE WAS BASED ON A MATERIAL MISREPRESENTATION OF FACT BY
18 THE CONSUMER.

19 (II) IF A CONSUMER REPORTING AGENCY INTENDS TO REMOVE A
20 SECURITY FREEZE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE CONSUMER
21 REPORTING AGENCY SHALL NOTIFY THE CONSUMER IN WRITING OF ITS INTENT AT
22 LEAST 5 BUSINESS DAYS BEFORE REMOVING THE SECURITY FREEZE.

23 (H) (1) SUBJECT TO SUBSECTION (G)(2) OF THIS SECTION, A SECURITY
24 FREEZE SHALL REMAIN IN PLACE UNTIL THE CONSUMER REQUESTS THAT THE
25 SECURITY FREEZE BE REMOVED.

26 (2) A CONSUMER REQUESTING THAT A SECURITY FREEZE BE REMOVED
27 SHALL PROVIDE:

28 (I) PROPER IDENTIFICATION; AND

29 (II) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR
30 PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY UNDER SUBSECTION
31 (C)(4)(II) OF THIS SECTION.

32 (3) A CONSUMER REPORTING AGENCY SHALL REMOVE A SECURITY
33 FREEZE WITHIN 3 BUSINESS DAYS AFTER RECEIVING A REQUEST FOR REMOVAL.

34 (I) (1) IF A SECURITY FREEZE IS IN PLACE, A CONSUMER REPORTING
35 AGENCY MAY NOT CHANGE ANY OF THE FOLLOWING OFFICIAL INFORMATION IN A
36 CONSUMER REPORT WITHOUT SENDING A WRITTEN CONFIRMATION TO THE
37 CONSUMER WITHIN 30 DAYS AFTER THE CHANGE IS POSTED TO THE CONSUMER'S
38 FILE:

39 (I) NAME;

1 (II) DATE OF BIRTH;

2 (III) SOCIAL SECURITY NUMBER; OR

3 (IV) ADDRESS.

4 (2) WRITTEN CONFIRMATION IS NOT REQUIRED FOR TECHNICAL
5 MODIFICATIONS OF A CONSUMER'S OFFICIAL INFORMATION, INCLUDING:

6 (I) NAME AND STREET ABBREVIATIONS;

7 (II) COMPLETE SPELLINGS; OR

8 (III) TRANSPOSITION OF NUMBERS OR LETTERS.

9 (3) A CONSUMER REPORTING AGENCY SHALL SEND WRITTEN
10 CONFIRMATION REGARDING AN ADDRESS CHANGE TO BOTH THE NEW ADDRESS AND
11 THE FORMER ADDRESS.

12 (J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
13 CONSUMER MAY NOT BE CHARGED FOR ANY SERVICE RELATING TO A SECURITY
14 FREEZE.

15 (2) A CONSUMER REPORTING AGENCY MAY CHARGE:

16 (I) A FEE NOT EXCEEDING \$5 FOR EACH REQUEST BY THE
17 CONSUMER TO TEMPORARILY LIFT OR REMOVE A SECURITY FREEZE PLACED ON THE
18 CONSUMER'S CREDIT REPORT; AND

19 (II) A REASONABLE FEE, NOT EXCEEDING \$5, IF THE CONSUMER
20 FAILS TO RETAIN THE ORIGINAL PERSONAL IDENTIFICATION NUMBER OR
21 PASSWORD PROVIDED BY THE CONSUMER REPORTING AGENCY AND MUST BE
22 REISSUED THE SAME OR A NEW PERSONAL IDENTIFICATION NUMBER OR PASSWORD.

23 (K) AT ANY TIME A CONSUMER IS ENTITLED TO RECEIVE A SUMMARY OF
24 RIGHTS UNDER § 609 OF THE FEDERAL FAIR CREDIT REPORTING ACT OR THIS
25 SUBTITLE, THE FOLLOWING NOTICE SHALL BE INCLUDED:

26 "NOTICE

27 YOU HAVE A RIGHT, UNDER § 14-1202.1 OF THE COMMERCIAL LAW ARTICLE OF
28 THE ANNOTATED CODE OF MARYLAND, TO PLACE A SECURITY FREEZE ON YOUR
29 CREDIT REPORT. THE SECURITY FREEZE WILL PROHIBIT A CONSUMER REPORTING
30 AGENCY FROM RELEASING ANY INFORMATION IN YOUR CREDIT REPORT WITHOUT
31 YOUR EXPRESS AUTHORIZATION. THE PURPOSE OF A SECURITY FREEZE IS TO
32 PREVENT CREDIT, LOANS, AND SERVICES FROM BEING APPROVED WITHOUT YOUR
33 CONSENT.

34 YOU MAY ELECT TO HAVE A CONSUMER REPORTING AGENCY PLACE A
35 SECURITY FREEZE ON YOUR CREDIT REPORT BY WRITTEN REQUEST SENT BY

1 CERTIFIED MAIL, BY TELEPHONE, OR BY ELECTRONIC MAIL IF THE CONSUMER
2 REPORTING AGENCY HAS A SECURE ELECTRONIC MAIL CONNECTION. WITHIN 5
3 BUSINESS DAYS AFTER YOU PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT,
4 YOU WILL BE PROVIDED WITH A UNIQUE PERSONAL IDENTIFICATION NUMBER OR
5 PASSWORD TO USE IF YOU WANT TO REMOVE THE SECURITY FREEZE OR
6 TEMPORARILY LIFT THE SECURITY FREEZE TO RELEASE YOUR CREDIT REPORT TO A
7 SPECIFIC PERSON OR FOR A SPECIFIC PERIOD OF TIME. TO PROVIDE
8 AUTHORIZATION, YOU MUST CONTACT THE CONSUMER REPORTING AGENCY AND
9 PROVIDE ALL OF THE FOLLOWING:

10 (1) PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY;

11 (2) THE UNIQUE PERSONAL IDENTIFICATION NUMBER OR PASSWORD
12 PROVIDED TO YOU BY THE CONSUMER REPORTING AGENCY; AND

13 (3) THE PROPER INFORMATION REGARDING THE PERSON THAT IS TO
14 RECEIVE THE CREDIT REPORT OR THE TIME PERIOD DURING WHICH THE CREDIT
15 REPORT IS TO BE AVAILABLE TO USERS OF THE CREDIT REPORT.

16 IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD BE AWARE THAT THE
17 PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR OWN
18 APPLICATIONS FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A SECURITY
19 FREEZE, EITHER COMPLETELY IF YOU ARE SEEKING CREDIT FROM A NUMBER OF
20 SOURCES, OR JUST FOR A SPECIFIC CREDITOR IF YOU ARE APPLYING ONLY TO THAT
21 CREDITOR, A FEW DAYS BEFORE ACTUALLY APPLYING FOR NEW CREDIT.

22 A SECURITY FREEZE DOES NOT APPLY IF YOU HAVE AN EXISTING ACCOUNT
23 RELATIONSHIP AND A COPY OF YOUR CREDIT REPORT IS REQUESTED BY YOUR
24 EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN TYPES OF
25 ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL, OR SIMILAR ACTIVITIES.

26 YOU HAVE A RIGHT TO BRING A CIVIL ACTION AGAINST ANY CONSUMER
27 REPORTING AGENCY OR USER OF YOUR CREDIT REPORT WHO VIOLATES YOUR
28 RIGHTS UNDER MARYLAND'S CREDIT REPORTING LAWS."

29 (L) IF A CONSUMER REPORTING AGENCY VIOLATES A SECURITY FREEZE BY
30 RELEASING A CONSUMER'S CREDIT REPORT OR ANY INFORMATION IN A CONSUMER'S
31 CREDIT REPORT, THE CONSUMER REPORTING AGENCY, WITHIN 5 BUSINESS DAYS
32 AFTER THE RELEASE, SHALL NOTIFY THE CONSUMER OF:

33 (1) THE SPECIFIC INFORMATION RELEASED; AND

34 (2) THE NAME AND ADDRESS OF THE RECIPIENT OF THE INFORMATION
35 RELEASED.

36 (M) (1) A CONSUMER REPORTING AGENCY THAT KNOWINGLY VIOLATES A
37 SECURITY FREEZE BY RELEASING A CONSUMER'S CREDIT REPORT OR ANY
38 INFORMATION IN A CONSUMER'S CREDIT REPORT IS LIABLE TO THE CONSUMER IN
39 AN AMOUNT EQUAL TO THE SUM OF:

1 (I) A PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION;

2 (II) ANY ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A
3 RESULT OF THE VIOLATION; AND

4 (III) REASONABLE EXPENSES, COURT COSTS, INVESTIGATIVE
5 COSTS, AND ATTORNEY'S FEES.

6 (2) FOR PURPOSES OF IMPOSING PENALTIES UNDER PARAGRAPH (1) OF
7 THIS SUBSECTION, EACH RELEASE BY A CONSUMER REPORTING AGENCY OF A
8 CONSUMER'S CREDIT REPORT OR ANY INFORMATION IN A CONSUMER'S CREDIT
9 REPORT IS A SEPARATE VIOLATION.

10 (N) THE FOLLOWING ENTITIES ARE NOT REQUIRED TO PLACE A SECURITY
11 FREEZE IN A CONSUMER REPORT IN ACCORDANCE WITH THIS SUBTITLE:

12 (1) A CHECK SERVICES COMPANY OR FRAUD PREVENTION SERVICES
13 COMPANY THAT ISSUES REPORTS ON INCIDENTS OF FRAUD OR AUTHORIZATIONS
14 FOR THE PURPOSE OF APPROVING OR PROCESSING:

15 (I) NEGOTIABLE INSTRUMENTS;

16 (II) ELECTRONIC FUNDS TRANSFERS; OR

17 (III) SIMILAR METHODS OF PAYMENT; AND

18 (2) A DEMAND DEPOSIT ACCOUNT INFORMATION SERVICE COMPANY
19 THAT ISSUES REPORTS REGARDING ACCOUNT CLOSURES DUE TO:

20 (I) FRAUD;

21 (II) SUBSTANTIAL OVERDRAFTS;

22 (III) AUTOMATED TELLER MACHINE ABUSE; OR

23 (IV) SIMILAR NEGATIVE INFORMATION.

24 SUBTITLE 35. SECURITY BREACH OF PERSONAL INFORMATION.

25 14-3501.

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (B) (1) "BUSINESS" MEANS A SOLE PROPRIETORSHIP, PARTNERSHIP,
29 CORPORATION, ASSOCIATION, OR ANY OTHER BUSINESS ENTITY, WHETHER OR NOT
30 ORGANIZED TO OPERATE AT A PROFIT.

31 (2) "BUSINESS" INCLUDES A FINANCIAL INSTITUTION ORGANIZED,
32 CHARTERED, LICENSED, OR OTHERWISE AUTHORIZED UNDER THE LAWS OF THIS

1 STATE, ANY OTHER STATE, THE UNITED STATES, OR ANY OTHER COUNTRY, AND THE
2 PARENT OR SUBSIDIARY OF A FINANCIAL INSTITUTION.

3 (C) "MEDICAL INFORMATION" MEANS ANY INDIVIDUALLY IDENTIFIABLE
4 INFORMATION, IN ELECTRONIC OR PHYSICAL FORM, REGARDING AN INDIVIDUAL'S
5 MEDICAL HISTORY OR MEDICAL TREATMENT OR DIAGNOSIS BY A HEALTH CARE
6 PROFESSIONAL.

7 (D) (1) "PERSONAL INFORMATION" MEANS THE FOLLOWING INFORMATION
8 WHEN THE INFORMATION IS CAPABLE OF BEING ASSOCIATED WITH A PARTICULAR
9 INDIVIDUAL AND IS NOT ENCRYPTED:

10 (I) A SIGNATURE;

11 (II) A SOCIAL SECURITY NUMBER;

12 (III) A DRIVER'S LICENSE NUMBER;

13 (IV) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT CARD
14 NUMBER OR DEBIT CARD NUMBER;

15 (V) A REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD
16 THAT WOULD PERMIT ACCESS TO AN INDIVIDUAL'S FINANCIAL ACCOUNT;

17 (VI) A CONSUMER REPORT, AS DEFINED IN § 14-1201 OF THIS TITLE;
18 OR

19 (VII) ANY MEDICAL INFORMATION.

20 (2) "PERSONAL INFORMATION" DOES NOT INCLUDE INFORMATION THAT
21 AN INDIVIDUAL HAS CONSENTED TO HAVE PUBLICLY DISSEMINATED OR LISTED.

22 (E) "RECORDS" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE
23 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS
24 RETRIEVABLE IN PERCEIVABLE FORM.

25 14-3502.

26 (A) IN THIS SECTION, "CUSTOMER" MEANS AN INDIVIDUAL RESIDING IN THE
27 STATE WHO PROVIDES PERSONAL INFORMATION TO A BUSINESS FOR THE PURPOSE
28 OF PURCHASING OR LEASING A PRODUCT OR OBTAINING A SERVICE FROM THE
29 BUSINESS.

30 (B) WHEN A BUSINESS IS DESTROYING A CUSTOMER'S RECORDS THAT
31 CONTAIN PERSONAL INFORMATION OF THE CUSTOMER, THE BUSINESS SHALL TAKE
32 ALL REASONABLE STEPS TO DESTROY OR ARRANGE FOR THE DESTRUCTION OF THE
33 RECORDS IN A MANNER THAT MAKES THE PERSONAL INFORMATION UNREADABLE
34 OR UNDECIPHERABLE THROUGH ANY MEANS.

1 14-3503.

2 (A) A BUSINESS THAT OWNS OR LICENSES PERSONAL INFORMATION OF AN
3 INDIVIDUAL RESIDING IN THE STATE SHALL IMPLEMENT AND MAINTAIN
4 REASONABLE SECURITY PROCEDURES AND PRACTICES APPROPRIATE TO THE
5 NATURE OF THE PERSONAL INFORMATION OWNED OR LICENSED TO PROTECT THE
6 PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, DESTRUCTION, USE,
7 MODIFICATION, OR DISCLOSURE.

8 (B) A BUSINESS THAT DISCLOSES PERSONAL INFORMATION ABOUT AN
9 INDIVIDUAL RESIDING IN THE STATE UNDER A CONTRACT WITH A NONAFFILIATED
10 THIRD PARTY SHALL REQUIRE BY CONTRACT THAT THE THIRD PARTY COMPLY WITH
11 THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

12 14-3504.

13 (A) (1) IN THIS SECTION, "BREACH OF THE SECURITY OF A SYSTEM" MEANS
14 THE UNAUTHORIZED ACQUISITION OF RECORDS CONTAINING PERSONAL
15 INFORMATION THAT COMPROMISES THE SECURITY, CONFIDENTIALITY, OR
16 INTEGRITY OF THE PERSONAL INFORMATION MAINTAINED BY A BUSINESS.

17 (2) "BREACH OF THE SECURITY OF A SYSTEM" DOES NOT INCLUDE THE
18 GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT
19 OF A BUSINESS FOR THE PURPOSES OF THE BUSINESS, PROVIDED THAT THE
20 PERSONAL INFORMATION IS NOT USED OR SUBJECT TO FURTHER UNAUTHORIZED
21 DISCLOSURE.

22 (B) (1) A BUSINESS THAT OWNS OR LICENSES RECORDS THAT INCLUDE
23 PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE SHALL NOTIFY
24 THE INDIVIDUAL OF A BREACH OF THE SECURITY OF A SYSTEM IF, AS A RESULT OF
25 THE BREACH, THE INDIVIDUAL'S PERSONAL INFORMATION:

26 (I) HAS BEEN ACQUIRED BY AN UNAUTHORIZED PERSON; OR

27 (II) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY AN
28 UNAUTHORIZED PERSON.

29 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
30 NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE
31 GIVEN AS SOON AS PRACTICABLE AFTER THE BUSINESS DISCOVERS OR IS NOTIFIED
32 OF THE BREACH OF THE SECURITY OF A SYSTEM.

33 (C) (1) A BUSINESS THAT MAINTAINS RECORDS THAT INCLUDE PERSONAL
34 INFORMATION THAT THE BUSINESS DOES NOT OWN SHALL NOTIFY THE OWNER OR
35 LICENSEE OF THE PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A
36 SYSTEM IF, AS A RESULT OF THE BREACH, THE PERSONAL INFORMATION OF AN
37 INDIVIDUAL RESIDING IN THE STATE:

38 (I) HAS BEEN ACQUIRED BY AN UNAUTHORIZED PERSON; OR

1 (II) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY AN
2 UNAUTHORIZED PERSON.

3 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE
4 NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE
5 GIVEN AS SOON AS PRACTICABLE AFTER THE BUSINESS DISCOVERS OR IS NOTIFIED
6 OF THE BREACH OF THE SECURITY OF A SYSTEM.

7 (D) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF
8 THIS SECTION MAY BE DELAYED:

9 (I) IF A LAW ENFORCEMENT AGENCY DETERMINES THAT THE
10 NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION; OR

11 (II) TO DETERMINE THE SCOPE OF THE BREACH OF THE SECURITY
12 OF A SYSTEM AND RESTORE THE INTEGRITY OF THE SYSTEM.

13 (2) IF NOTIFICATION IS DELAYED UNDER PARAGRAPH (1)(I) OF THIS
14 SUBSECTION, NOTIFICATION SHALL BE GIVEN AS SOON AS PRACTICABLE AFTER THE
15 LAW ENFORCEMENT AGENCY DETERMINES THAT IT WILL NOT IMPEDE A CRIMINAL
16 INVESTIGATION.

17 (E) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF
18 THIS SECTION MAY BE GIVEN BY:

19 (I) WRITTEN NOTICE;

20 (II) ELECTRONIC NOTICE, IF THE ELECTRONIC NOTICE IS
21 CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC RECORDS AND
22 SIGNATURES UNDER 15 U.S.C. § 7001; OR

23 (III) SUBSTITUTE NOTICE, IF THE BUSINESS DEMONSTRATES THAT:

24 1. THE COST OF PROVIDING NOTICE WOULD EXCEED
25 \$250,000;

26 2. THE AFFECTED CLASS OF INDIVIDUALS TO BE NOTIFIED
27 EXCEEDS 500,000; OR

28 3. THE BUSINESS DOES NOT HAVE SUFFICIENT CONTACT
29 INFORMATION.

30 (2) SUBSTITUTE NOTICE UNDER PARAGRAPH (1)(III) OF THIS
31 SUBSECTION SHALL CONSIST OF:

32 (I) ELECTRONIC MAIL NOTICE, IF THE BUSINESS HAS AN
33 ELECTRONIC MAIL ADDRESS;

34 (II) CONSPICUOUS POSTING OF THE NOTICE ON THE INTERNET
35 WEBSITE PAGE OF THE BUSINESS, IF THE BUSINESS MAINTAINS ONE; AND

1 (III) NOTIFICATION TO MAJOR STATEWIDE MEDIA.

2 (F) A BUSINESS SHALL PROVIDE NOTICE OF A BREACH OF THE SECURITY OF A
3 SYSTEM TO THE OFFICE OF THE ATTORNEY GENERAL WITHIN 24 HOURS AFTER THE
4 BUSINESS BECOMES AWARE OF THE BREACH.

5 (G) A BUSINESS SHALL NOTIFY ALL CONSUMER REPORTING AGENCIES THAT
6 COMPILE OR MAINTAIN FILES OF CONSUMERS ON A NATIONWIDE BASIS OF ANY
7 CIRCUMSTANCES THAT REQUIRE THE NOTIFICATION OF MORE THAN 1,000
8 INDIVIDUALS AT ONE TIME.

9 (H) A WAIVER OF ANY PROVISION OF THIS SECTION IS CONTRARY TO PUBLIC
10 POLICY AND IS VOID AND UNENFORCEABLE.

11 (I) COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A BUSINESS FROM
12 A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL, STATE, OR
13 LOCAL LAW RELATING TO THE PROTECTION AND PRIVACY OF PERSONAL
14 INFORMATION.

15 14-3505.

16 (A) A VIOLATION OF THIS SUBTITLE:

17 (1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
18 MEANING OF TITLE 13 OF THIS ARTICLE; AND

19 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
20 CONTAINED IN TITLE 13 OF THIS ARTICLE.

21 (B) IN ADDITION TO THE REMEDIES PROVIDED IN § 13-408 OF THIS ARTICLE,
22 AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF THIS SUBTITLE MAY BRING
23 AN ACTION AGAINST A PERSON THAT VIOLATES THIS SUBTITLE TO RECOVER:

24 (1) REASONABLE ATTORNEY'S FEES; AND

25 (2) DAMAGES IN THE AMOUNT OF THE GREATER OF:

26 (I) \$500 FOR EACH VIOLATION; OR

27 (II) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE
28 VIOLATION.

29 (C) FOR PURPOSES OF THIS SECTION, EACH INDIVIDUAL FAILURE TO COMPLY
30 WITH THE REQUIREMENTS OF THIS SUBTITLE IS A SEPARATE VIOLATION.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2006.