

HOUSE BILL 208

I3, P1

(71r0537)

ENROLLED BILL

— *Economic Matters/Finance* —

Introduced by **Delegates Howard, Ali, Aumann, Benson, Cane, Harrison, Haynes, Healey, Holmes, Kaiser, Kirk, Kullen, Lee, Pendergrass, Rice, Ross, Sossi, F. Turner, ~~and Vaughn~~ Vaughn, Braveboy, Burns, Feldman, Hecht, Jameson, Manno, Mathias, McHale, Rudolph, Shewell, and Walkup**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Personal Information Protection Act**

3 FOR the purpose of requiring a certain business, when destroying a customer's records
4 that contain certain personal information of the customer, to take certain steps
5 to protect against unauthorized access to or use of the personal information
6 under certain circumstances; requiring a certain business that owns or licenses
7 certain personal information of an individual residing in the State to implement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 and maintain certain security procedures and practices under certain
 2 circumstances; requiring certain businesses that own, license, or maintain
 3 computerized data that includes certain personal information of an individual
 4 residing in the State to conduct a certain investigation and ~~conduct a certain~~
 5 ~~investigation and~~ notify certain persons of a breach of the security of a system
 6 under certain circumstances; specifying the time at which notification must be
 7 given; specifying the contents of the notification; authorizing notification to be
 8 given in a certain manner; requiring certain businesses to retain certain records
 9 for a certain period of time under certain circumstances; providing that a waiver
 10 of certain provisions of this Act is contrary to public policy and is void and
 11 unenforceable; providing that compliance with certain provisions of this Act
 12 does not relieve a certain business from a duty to comply with certain other
 13 requirements of federal law; providing that the provisions of this Act are
 14 exclusive and shall preempt any provision of local law; requiring a business to
 15 report to certain consumer reporting agencies on the breach of the security of a
 16 system under certain circumstances; requiring a business to provide notice of a
 17 breach of the security of a system to the Office of the Attorney General prior to
 18 giving a certain notification; providing that certain businesses and affiliates
 19 shall be deemed to be in compliance with the requirements of this Act under
 20 certain circumstances; providing that a violation of this Act is an unfair or
 21 deceptive trade practice within the meaning of the Maryland Consumer
 22 Protection Act and is subject to certain enforcement and penalty provisions;
 23 defining certain terms; providing for a delayed effective date; and generally
 24 relating to the protection of personal information contained in the records of
 25 businesses, owned or licensed by businesses, or included in computerized data
 26 owned, licensed, or maintained by businesses.

27 BY adding to

28 Article – Commercial Law

29 Section 14–3501 through 14–3508 to be under the new subtitle “Subtitle 35.
 30 Maryland Personal Information Protection Act”

31 Annotated Code of Maryland

32 (2005 Replacement Volume and 2006 Supplement)

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

35 **Article – Commercial Law**

36 **SUBTITLE 35. MARYLAND PERSONAL INFORMATION PROTECTION ACT.**

37 **14–3501.**

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

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

6 (2) "BUSINESS" INCLUDES A FINANCIAL INSTITUTION
7 ORGANIZED, CHARTERED, LICENSED, OR OTHERWISE AUTHORIZED UNDER THE
8 LAWS OF THIS STATE, ANY OTHER STATE, THE UNITED STATES, OR ANY OTHER
9 COUNTRY, AND THE PARENT OR SUBSIDIARY OF A FINANCIAL INSTITUTION.

10 ~~(3) "BUSINESS" DOES NOT INCLUDE AN ENTITY THAT HAS AN~~
11 ~~ANNUAL GROSS INCOME OF LESS THAN \$1,000,000.~~

12 (C) "ENCRYPTED" MEANS THE TRANSFORMATION OF DATA THROUGH
13 THE USE OF AN ALGORITHMIC PROCESS INTO A FORM IN WHICH THERE IS A LOW
14 PROBABILITY OF ASSIGNING MEANING WITHOUT USE OF A CONFIDENTIAL
15 PROCESS OR KEY.

16 ~~(D)~~ (D) (1) "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S
17 FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION WITH ANY ONE
18 OR MORE OF THE FOLLOWING DATA ELEMENTS, WHEN THE NAME OR THE DATA
19 ELEMENTS ARE NOT ENCRYPTED, REDACTED, OR OTHERWISE PROTECTED BY
20 ANOTHER METHOD THAT RENDERS THE INFORMATION UNREADABLE OR
21 UNUSABLE:

22 (I) A SOCIAL SECURITY NUMBER;

23 (II) A DRIVER'S LICENSE NUMBER;

24 (III) A FINANCIAL ACCOUNT NUMBER, INCLUDING A CREDIT
25 CARD NUMBER OR DEBIT CARD NUMBER, THAT IN COMBINATION WITH ANY
26 REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT
27 ACCESS TO AN INDIVIDUAL'S FINANCIAL ACCOUNT; OR ~~OR~~

28 (IV) ~~A CONSUMER REPORT, AS DEFINED IN § 14-1201 OF~~
29 ~~THIS TITLE~~ AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER; OR

1 ~~(V)~~ A BILLING ACCOUNT NUMBER.

2 (2) “PERSONAL INFORMATION” DOES NOT INCLUDE:

3 (I) PUBLICLY AVAILABLE INFORMATION THAT IS
4 LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE,
5 OR LOCAL GOVERNMENT RECORDS;

6 (II) INFORMATION THAT AN INDIVIDUAL HAS CONSENTED
7 TO HAVE PUBLICLY DISSEMINATED OR LISTED; OR

8 (III) INFORMATION THAT IS DISSEMINATED OR LISTED IN
9 ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND
10 ACCOUNTABILITY ACT.

11 ~~(D)~~ (E) “RECORDS” MEANS INFORMATION THAT IS INSCRIBED ON A
12 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM
13 AND IS RETRIEVABLE IN PERCEIVABLE FORM.

14 **14-3502.**

15 (A) IN THIS SECTION, “CUSTOMER” MEANS AN INDIVIDUAL RESIDING IN
16 THE STATE WHO PROVIDES PERSONAL INFORMATION TO A BUSINESS FOR THE
17 PURPOSE OF PURCHASING OR LEASING A PRODUCT OR OBTAINING A SERVICE
18 FROM THE BUSINESS.

19 (B) WHEN A BUSINESS IS DESTROYING A CUSTOMER’S RECORDS THAT
20 CONTAIN PERSONAL INFORMATION OF THE CUSTOMER, THE BUSINESS SHALL
21 TAKE REASONABLE STEPS TO PROTECT AGAINST UNAUTHORIZED ACCESS TO OR
22 USE OF THE PERSONAL INFORMATION, TAKING INTO ACCOUNT:

23 (1) THE SENSITIVITY OF THE RECORDS;

24 (2) THE NATURE AND SIZE OF THE BUSINESS AND ITS
25 OPERATIONS;

26 (3) THE COSTS AND BENEFITS OF DIFFERENT DESTRUCTION
27 METHODS; AND

28 (4) AVAILABLE TECHNOLOGY.

1 **14-3503.**

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

9 (B) (1) A BUSINESS THAT USES A NONAFFILIATED THIRD PARTY AS A
10 SERVICE PROVIDER TO PERFORM SERVICES FOR THE BUSINESS AND DISCLOSES
11 PERSONAL INFORMATION ABOUT AN INDIVIDUAL RESIDING IN THE STATE
12 UNDER A WRITTEN CONTRACT WITH THE THIRD PARTY SHALL REQUIRE BY
13 CONTRACT THAT THE THIRD PARTY IMPLEMENT AND MAINTAIN REASONABLE
14 SECURITY PROCEDURES AND PRACTICES THAT:

15 (I) ARE APPROPRIATE TO THE NATURE OF THE PERSONAL
16 INFORMATION DISCLOSED TO THE NONAFFILIATED THIRD PARTY; AND

17 (II) ARE REASONABLY DESIGNED TO HELP PROTECT THE
18 PERSONAL INFORMATION FROM UNAUTHORIZED ACCESS, USE, MODIFICATION,
19 DISCLOSURE, OR DESTRUCTION.

20 (2) THIS SUBSECTION SHALL APPLY TO A WRITTEN CONTRACT
21 THAT IS ENTERED INTO ON OR AFTER JANUARY 1, 2009.

22 **14-3504.**

23 (A) IN THIS SECTION:

24 (1) "BREACH OF THE SECURITY OF A SYSTEM" MEANS THE
25 UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA THAT COMPROMISES
26 THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF THE PERSONAL
27 INFORMATION MAINTAINED BY A BUSINESS ~~AND WILL LIKELY RESULT IN A~~
28 ~~MATERIAL RISK OF IDENTITY THEFT;~~ AND

29 (2) "BREACH OF THE SECURITY OF A SYSTEM" DOES NOT
30 INCLUDE THE GOOD FAITH ACQUISITION OF PERSONAL INFORMATION BY AN

1 EMPLOYEE OR AGENT OF A BUSINESS FOR THE PURPOSES OF THE BUSINESS,
2 PROVIDED THAT:

3 ~~(I) THE THE PERSONAL INFORMATION IS NOT USED OR~~
4 ~~SUBJECT TO FURTHER UNAUTHORIZED DISCLOSURE; AND~~

5 ~~(II) IT IS NOT LIKELY THAT THE ACQUISITION WILL RESULT~~
6 ~~IN A MATERIAL RISK OF IDENTITY THEFT.~~

7 ~~(B) (1) A BUSINESS THAT OWNS OR LICENSES COMPUTERIZED DATA~~
8 ~~THAT INCLUDES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE~~
9 ~~STATE, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF~~
10 ~~A SYSTEM, SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT~~
11 ~~INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT THE BREACH WILL~~
12 ~~RESULT IN A MATERIAL RISK OF IDENTITY THEFT.~~

13 ~~(2) IF, AFTER THE INVESTIGATION IS CONCLUDED, THE BUSINESS~~
14 ~~REASONABLY BELIEVES THAT THE BREACH OF THE SECURITY OF A SYSTEM HAS~~
15 ~~RESULTED OR WILL RESULT IN A MATERIAL RISK OF IDENTITY THEFT OF~~
16 ~~PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE, THE~~
17 ~~BUSINESS SHALL NOTIFY THE INDIVIDUAL OF THE BREACH SHALL NOTIFY THE~~
18 ~~INDIVIDUAL OF A BREACH OF THE SECURITY OF A SYSTEM IF, AS A RESULT OF~~
19 ~~THE BREACH, THE INDIVIDUAL'S PERSONAL INFORMATION:~~

20 ~~(I) HAS BEEN ACQUIRED BY AN UNAUTHORIZED PERSON;~~
21 ~~OR~~

22 ~~(II) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY~~
23 ~~AN UNAUTHORIZED PERSON.~~

24 ~~(B) (1) A BUSINESS THAT OWNS OR LICENSES COMPUTERIZED DATA~~
25 ~~THAT INCLUDES PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE~~
26 ~~STATE, WHEN IT DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF~~
27 ~~A SYSTEM, SHALL CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT~~
28 ~~INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT PERSONAL~~
29 ~~INFORMATION OF THE INDIVIDUAL HAS BEEN OR WILL BE MISUSED AS A RESULT~~
30 ~~OF THE BREACH.~~

31 ~~(2) IF AFTER THE INVESTIGATION IS CONCLUDED, THE BUSINESS~~
32 ~~DETERMINES THAT MISUSE OF THE INDIVIDUAL'S PERSONAL INFORMATION HAS~~

1 OCCURRED OR IS REASONABLY LIKELY TO OCCUR AS A RESULT OF A BREACH OF
2 THE SECURITY OF A SYSTEM, THE BUSINESS SHALL NOTIFY THE INDIVIDUAL OF
3 THE BREACH.

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

11 (4) IF AFTER THE INVESTIGATION REQUIRED UNDER PARAGRAPH
12 (1) OF THIS SUBSECTION IS CONCLUDED, THE BUSINESS DETERMINES THAT
13 NOTIFICATION UNDER PARAGRAPH (2) OF THIS SUBSECTION IS NOT REQUIRED,
14 THE BUSINESS SHALL MAINTAIN RECORDS THAT REFLECT ITS DETERMINATION
15 FOR 3 YEARS AFTER THE DETERMINATION IS MADE.

16 (C) (1) A BUSINESS THAT MAINTAINS COMPUTERIZED DATA THAT
17 INCLUDES PERSONAL INFORMATION THAT THE BUSINESS DOES NOT OWN OR
18 LICENSE SHALL NOTIFY THE OWNER OR LICENSEE OF THE PERSONAL
19 INFORMATION OF A BREACH OF THE SECURITY OF A SYSTEM IF IT IS LIKELY
20 THAT THE BREACH HAS RESULTED OR WILL RESULT IN THE MISUSE OF
21 PERSONAL INFORMATION OF AN INDIVIDUAL RESIDING IN THE STATE ~~IF IT IS~~
22 ~~LIKELY THAT THE BREACH HAS RESULTED OR WILL RESULT IN A MATERIAL~~
23 ~~RISK OF IDENTITY THEFT OF PERSONAL INFORMATION OF AN INDIVIDUAL~~
24 ~~RESIDING IN THE STATE.~~

25 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
26 THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION
27 SHALL BE GIVEN AS SOON AS REASONABLY PRACTICABLE AFTER THE BUSINESS
28 DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.

29 (3) A BUSINESS THAT IS REQUIRED TO NOTIFY AN OWNER OR
30 LICENSEE OF PERSONAL INFORMATION OF A BREACH OF THE SECURITY OF A
31 SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL SHARE WITH THE
32 OWNER OR LICENSEE INFORMATION RELATIVE TO THE BREACH.

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

1 (I) IF A LAW ENFORCEMENT AGENCY DETERMINES THAT
2 THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION OR JEOPARDIZE
3 HOMELAND OR NATIONAL SECURITY; OR

4 (II) TO DETERMINE THE SCOPE OF THE BREACH OF THE
5 SECURITY OF A SYSTEM, IDENTIFY THE INDIVIDUALS AFFECTED, OR RESTORE
6 THE INTEGRITY OF THE SYSTEM.

7 (2) IF NOTIFICATION IS DELAYED UNDER PARAGRAPH (1)(I) OF
8 THIS SUBSECTION, NOTIFICATION SHALL BE GIVEN AS SOON AS REASONABLY
9 PRACTICABLE AFTER THE LAW ENFORCEMENT AGENCY DETERMINES THAT IT
10 WILL NOT IMPEDE A CRIMINAL INVESTIGATION AND WILL NOT JEOPARDIZE
11 HOMELAND OR NATIONAL SECURITY.

12 (E) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF
13 THIS SECTION MAY BE GIVEN:

14 (1) BY WRITTEN NOTICE SENT TO THE MOST RECENT ADDRESS OF
15 THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS;

16 (2) BY ELECTRONIC ~~NOTICE, IF THE ELECTRONIC NOTICE IS~~
17 ~~CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC RECORDS AND~~
18 ~~SIGNATURES UNDER 15 U.S.C. § 7001~~ MAIL TO THE MOST RECENT ELECTRONIC
19 MAIL ADDRESS OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS, IF:

20 (I) THE INDIVIDUAL HAS EXPRESSLY CONSENTED TO
21 RECEIVE ELECTRONIC NOTICE; OR

22 (II) THE BUSINESS CONDUCTS ITS BUSINESS PRIMARILY
23 THROUGH INTERNET ACCOUNT TRANSACTIONS OR THE INTERNET;

24 (3) BY TELEPHONIC NOTICE, TO THE MOST RECENT TELEPHONE
25 NUMBER OF THE INDIVIDUAL IN THE RECORDS OF THE BUSINESS; OR

26 (4) BY SUBSTITUTE NOTICE AS PROVIDED IN SUBSECTION (F) OF
27 THIS SECTION, IF:

28 (I) THE BUSINESS DEMONSTRATES THAT THE COST OF
29 PROVIDING NOTICE WOULD EXCEED ~~\$25,000~~ ~~\$125,000~~ \$100,000 OR THAT THE

1 **AFFECTED CLASS OF INDIVIDUALS TO BE NOTIFIED EXCEEDS ~~50,000~~ 250,000**
2 **175,000; OR**

3 **(II) THE BUSINESS DOES NOT HAVE SUFFICIENT CONTACT**
4 **INFORMATION TO GIVE NOTICE IN ACCORDANCE WITH ITEM (1), (2), OR (3) OF**
5 **THIS SUBSECTION.**

6 **(F) SUBSTITUTE NOTICE UNDER SUBSECTION (E)(4) OF THIS SECTION**
7 **SHALL CONSIST OF:**

8 **(1) ELECTRONICALLY MAILING THE NOTICE TO AN INDIVIDUAL**
9 **ENTITLED TO NOTIFICATION UNDER SUBSECTION (B) OF THIS SECTION, IF THE**
10 **BUSINESS HAS AN ELECTRONIC MAIL ADDRESS FOR THE INDIVIDUAL TO BE**
11 **NOTIFIED;**

12 **(2) CONSPICUOUS POSTING OF THE NOTICE ON THE WEBSITE OF**
13 **THE BUSINESS, IF THE BUSINESS MAINTAINS A WEBSITE; AND**

14 **(3) NOTIFICATION TO STATEWIDE MEDIA.**

15 **(G) THE NOTIFICATION REQUIRED UNDER SUBSECTIONS SUBSECTION**
16 **(B) AND (C) OF THIS SECTION SHALL INCLUDE:**

17 **(1) TO THE EXTENT POSSIBLE, A DESCRIPTION OF THE**
18 **CATEGORIES OF INFORMATION THAT WERE, OR ARE REASONABLY BELIEVED TO**
19 **HAVE BEEN, ACQUIRED BY AN UNAUTHORIZED PERSON, INCLUDING WHICH OF**
20 **THE ELEMENTS OF PERSONAL INFORMATION WERE, OR ARE REASONABLY**
21 **BELIEVED TO HAVE BEEN, ACQUIRED;**

22 **(2) CONTACT INFORMATION FOR THE BUSINESS MAKING THE**
23 **NOTIFICATION, INCLUDING THE BUSINESS' ADDRESS, TELEPHONE NUMBER,**
24 **AND TOLL-FREE TELEPHONE NUMBER IF ONE IS MAINTAINED;**

25 **(3) THE TOLL-FREE TELEPHONE NUMBERS AND ADDRESSES FOR**
26 **THE MAJOR CONSUMER REPORTING AGENCIES; AND**

27 **(4) (I) THE TOLL-FREE TELEPHONE NUMBERS, ADDRESSES,**
28 **AND WEBSITE ADDRESSES FOR:**

29 **1. THE FEDERAL TRADE COMMISSION; AND**

2. THE OFFICE OF THE ATTORNEY GENERAL; AND

(II) A STATEMENT THAT AN INDIVIDUAL CAN OBTAIN INFORMATION FROM THESE SOURCES ABOUT STEPS THE INDIVIDUAL CAN TAKE TO AVOID IDENTITY THEFT.

~~(G)~~ (H) A PRIOR TO GIVING THE NOTIFICATION REQUIRED UNDER SUBSECTIONS SUBSECTION (B) AND ~~(C)~~ OF THIS SECTION AND SUBJECT TO SUBSECTION (D) OF THIS SECTION, A BUSINESS SHALL PROVIDE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO THE OFFICE OF THE ATTORNEY GENERAL ~~WITHIN 5 BUSINESS DAYS AFTER THE BUSINESS BECOMES AWARE OF THE BREACH.~~

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

~~(I)~~ (J) COMPLIANCE WITH THIS SECTION DOES NOT RELIEVE A BUSINESS FROM A DUTY TO COMPLY WITH ANY OTHER REQUIREMENTS OF FEDERAL LAW RELATING TO THE PROTECTION AND PRIVACY OF PERSONAL INFORMATION.

14-3505.

THE PROVISIONS OF THIS SUBTITLE ARE EXCLUSIVE AND SHALL PREEMPT ANY PROVISION OF LOCAL LAW.

14-3506.

(A) IF A BUSINESS IS REQUIRED UNDER § 14-3504 OF THIS SUBTITLE TO GIVE NOTICE OF A BREACH OF THE SECURITY OF A SYSTEM TO 1,000 OR MORE INDIVIDUALS, THE BUSINESS ALSO SHALL NOTIFY, WITHOUT UNREASONABLE DELAY, EACH CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS, AS DEFINED BY 15 U.S.C. § 1681A(P), OF THE TIMING, DISTRIBUTION, AND CONTENT OF THE NOTICES.

(B) THIS SECTION DOES NOT REQUIRE THE INCLUSION OF THE NAMES OR OTHER PERSONAL IDENTIFYING INFORMATION OF RECIPIENTS OF NOTICES OF THE BREACH OF THE SECURITY OF A SYSTEM.

1 **14-3507.**

2 (A) IN THIS SECTION, "AFFILIATE" MEANS A COMPANY THAT CONTROLS,
3 IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A BUSINESS
4 DESCRIBED IN SUBSECTION (C)(1) OF THIS SECTION.

5 (B) A BUSINESS THAT COMPLIES WITH THE REQUIREMENTS FOR
6 NOTIFICATION PROCEDURES, THE PROTECTION OR SECURITY OF PERSONAL
7 INFORMATION, OR THE DESTRUCTION OF PERSONAL INFORMATION UNDER THE
8 RULES, REGULATIONS, PROCEDURES, OR GUIDELINES ESTABLISHED BY THE
9 PRIMARY OR FUNCTIONAL FEDERAL OR STATE REGULATOR OF THE BUSINESS
10 SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

11 (C) (1) A BUSINESS THAT IS SUBJECT TO AND IN COMPLIANCE WITH §
12 501(B) OF THE FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216
13 OF THE FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. §
14 1681W, THE FEDERAL INTERAGENCY GUIDELINES ESTABLISHING
15 INFORMATION SECURITY STANDARDS, AND THE FEDERAL INTERAGENCY
16 GUIDANCE ON RESPONSE PROGRAMS FOR UNAUTHORIZED ACCESS TO
17 CUSTOMER INFORMATION AND CUSTOMER NOTICE, AND ANY REVISIONS,
18 ADDITIONS, OR SUBSTITUTIONS, SHALL BE DEEMED TO BE IN COMPLIANCE
19 WITH THIS SUBTITLE.

20 (2) AN AFFILIATE THAT COMPLIES WITH § 501(B) OF THE
21 FEDERAL GRAMM-LEACH-BLILEY ACT, 15 U.S.C. § 6801, § 216 OF THE
22 FEDERAL FAIR AND ACCURATE TRANSACTIONS ACT, 15 U.S.C. § 1681W, THE
23 FEDERAL INTERAGENCY GUIDELINES ESTABLISHING INFORMATION SECURITY
24 STANDARDS, AND THE FEDERAL INTERAGENCY GUIDANCE ON RESPONSE
25 PROGRAMS FOR UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION AND
26 CUSTOMER NOTICE, AND ANY REVISIONS, ADDITIONS, OR SUBSTITUTIONS,
27 SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBTITLE.

28 **14-3508.**

29 **A VIOLATION OF THIS SUBTITLE:**

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 January 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.