

House Bill 926

By: Representatives Ashe of the 46th, Martin of the 47th, Campbell of the 42nd, Skipper of the 137th and Reed of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 10 of the Official Code of Georgia Annotated, relating to commerce and
2 trade, so as to establish guidelines for proper disposal of certain business documents
3 containing personal information; to define terms; to provide for civil liability; to provide for
4 criminal penalties; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
9 amended by adding at the end a new chapter, to be designated Chapter 15, to read as follows:

10 "CHAPTER 15

11 10-15-1.

12 As used in this chapter, the term:

13 (1) 'Credit card' means such card as defined in paragraph (3) of Code Section 7-5-2.

14 (2) 'Dispose' does not include a sale of a record or the transfer of a record for value.

15 (3) 'Financial institution' means any bank, savings bank, savings and loan association,
16 credit union, issuer of a credit card, investment company, and any institution as defined
17 in Code Section 7-1-4.

18 (4) 'Insurance company' means an association, corporation, or fraternal or mutual benefit
19 organization, whether or not for profit, which is engaged in providing insurance of any
20 type.

21 (5) 'Investment company' means a corporation which is an investment company as
22 defined by the act of Congress entitled 'Investment Company Act of 1940' and is
23 incorporated in accordance with Chapter 2 of Title 14 so as to constitute a medium for
24 the investment of funds.

1 (6) 'Medical business' means any organization or enterprise operated for profit or not for
2 profit, including a sole proprietorship, partnership, firm, business trust, joint venture,
3 syndicate, corporation, limited liability company, or association, that possesses
4 information, other than personnel records, relating to a person's physical or mental
5 health, medical history, or medical treatment.

6 (7) 'Personal information' means:

7 (A) Personally identifiable data about a person's medical condition, if the data are not
8 generally considered to be public knowledge;

9 (B) Personally identifiable data that contain a person's account or customer number,
10 account balance, balance owing, credit balance, or credit limit, if the data relate to a
11 person's account or transaction with a financial institution;

12 (C) Personally identifiable data provided by a person to a financial institution upon
13 opening an account or applying for a loan or credit; and

14 (D) Personally identifiable data about a person's federal, state, or local tax return.

15 (8) 'Personally identifiable' means capable of being associated with a particular person
16 through one or more identifiers, including, but not limited to, a person's fingerprint,
17 photograph, or computerized image, social security number, driver identification number,
18 name, address (other than five-digit ZIP code), telephone number, medical information,
19 or disability information.

20 (9) 'Record' means any material on which written, drawn, printed, spoken, visual, or
21 electromagnetic information is recorded or preserved, regardless of physical form or
22 characteristics.

23 (10) 'Tax preparation business' means any organization or enterprise operated for profit,
24 including a sole proprietorship, partnership, firm, business trust, joint venture, syndicate,
25 corporation, limited liability company, or association, that for a fee prepares a person's
26 federal, state, or local tax return or counsels a person regarding the person's federal, state,
27 or local tax return.

28 10-15-2.

29 A financial institution, medical business, insurance company, or tax preparation business
30 may not dispose of a record containing personal information unless the financial institution,
31 medical business, insurance company, tax preparation business, or other person under
32 contract with the financial institution, medical business, insurance company, or tax
33 preparation business:

34 (1) Shreds the record before the disposal of the record;

35 (2) Erases the personal information contained in the record before the disposal of the
36 record;

- 1 (3) Modifies the record to make the personal information unreadable before the disposal
2 of the record; or
3 (4) Takes actions that it reasonably believes will ensure that no unauthorized person will
4 have access to the personal information contained in the record for the period between
5 the record's disposal and the record's destruction.

6 10-15-3.

7 (a) A financial institution, medical business, insurance company, or tax preparation
8 business is liable to a person whose personal information is disposed of in violation of
9 Code Section 10-15-2 for the amount of damages resulting from the violation.

10 (b) Any person who, for any purpose, uses personal information contained in a record that
11 was disposed of by a financial institution, medical business, insurance company, or tax
12 preparation business is liable to a person who is the subject of the information and to the
13 financial institution, medical business, or tax preparation business that disposed of the
14 record for the amount of damages resulting from the person's use of the information. This
15 Code section does not apply to a person who uses personal information with the
16 authorization or consent of the person who is the subject of the information.

17 10-15-4.

18 (a) A financial institution, medical business, insurance company, or tax preparation
19 business that violates Code Section 10-15-2 may be fined not more than \$1,000.00. Acts
20 arising out of the same incident or occurrence shall be a single violation.

21 (b) Any person who possesses a record that was disposed of by a financial institution,
22 medical business, insurance company, or tax preparation business and who intends to use,
23 for any purpose, personal information contained in the record may be fined not more than
24 \$1,000.00 or imprisoned for not more than 12 months or both. This Code section does not
25 apply to a person who possesses a record with the authorization or consent of the person
26 whose personal information is contained in the record."

27 **SECTION 2.**

28 All laws and parts of laws in conflict with this Act are repealed.