

House Bill 638

By: Representatives Buckner of the 76th, Reece of the 11th, Smith of the 168th, Powell of the 29th, Jacobs of the 80th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide definitions; to require investigative consumer
3 reporting agencies to give notice to consumers of certain security breaches; to provide for a
4 standard of care to be exercised by investigative consumer reporting agencies; to provide for
5 rules, regulations, and guidelines; to provide for related matters; to provide an effective date;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
10 trade practices, is amended by adding a new Article 34 to read as follows:

11 "ARTICLE 34

12 10-1-910.

13 As used in this article, the term:

14 (1) 'Agency' or 'investigative consumer reporting agency' means any person or entity
15 who, for monetary fees or dues, engages in whole or in part in the practice of collecting,
16 assembling, evaluating, compiling, reporting, transmitting, transferring, or
17 communicating information concerning consumers for the purposes of furnishing
18 investigative consumer reports to third parties, but does not include any governmental
19 agency whose records are maintained primarily for traffic safety, law enforcement, or
20 licensing purposes, or any licensed insurance agent or insurance broker.

21 (2) 'Breach of the security of the system' means unauthorized acquisition of a consumer's
22 file or computerized data that compromises the security, confidentiality, or integrity of
23 personal information of such consumer maintained by the agency. Good faith acquisition
24 of personal information by an employee or agent of the agency for the purposes of the

1 agency is not a breach of the security of the system, provided that the personal
2 information is not used or subject to further unauthorized disclosure.

3 (3) 'Consumer' means a natural individual who has made application to a person for
4 employment purposes; for insurance for personal, family, or household purposes; for the
5 rental or purchase of a dwelling; or for other such purposes.

6 (4) 'File,' when used in connection with information on any consumer, means all of the
7 information on that consumer recorded and retained by an investigative consumer
8 reporting agency regardless of how the information is stored.

9 (5) 'Notice' means:

10 (A) Written notice;

11 (B) Electronic notice, if the notice provided is consistent with the provisions regarding
12 electronic records and signatures set forth in Section 7001 of Title 15 of the United
13 States Code; or

14 (C) Substitute notice, if the agency demonstrates that the cost of providing notice
15 would exceed \$250,000.00, or that the affected class of persons to be notified exceeds
16 500,000, or the agency does not have sufficient contact information to provide written
17 or electronic notice to such persons. Substitute notice shall consist of all of the
18 following:

19 (i) E-mail notice when the agency has an e-mail address for the persons to be
20 notified;

21 (ii) Conspicuous posting of the notice on the agency's website page, if the agency
22 maintains one; and

23 (iii) Notification to major state-wide media.

24 Notwithstanding any provision of this paragraph to the contrary, an agency that maintains
25 its own notification procedures as part of an information security policy for the treatment
26 of personal information and is otherwise consistent with the timing requirements of this
27 article shall be deemed to be in compliance with the notification requirements of this
28 article if it notifies the persons who are the subjects of the notice in accordance with its
29 policies in the event of a breach of security of the system.

30 (6) 'Person' means any individual, partnership, corporation, limited liability company,
31 trust, estate, cooperative, association, or other entity. The term 'person' as used in this
32 article shall not be construed to require duplicative reporting by any individual,
33 corporation, trust, estate, cooperative, association, or other entity involved in the same
34 transaction.

35 (7) 'Personal information' means an individual's first name or first initial and last name
36 in combination with any one or more of the following data elements, when either the
37 name or the data elements are not encrypted:

- 1 (A) Social security number;
- 2 (B) Driver's license number of an individual or number of an individual's
3 identification card issued pursuant to Article 5 of Chapter 5 of Title 40; or
- 4 (C) Account number, credit card number, or debit card number, in combination with
5 any required security code, access code, or password that would permit access to an
6 individual's financial account.

7 The term 'personal information' does not include publicly available information that is
8 lawfully made available to the general public from federal, state, or local government
9 records.

10 10-1-911.

11 (a) Any agency that owns or licenses computerized data that includes personal information
12 shall disclose any breach of the security of the system following discovery or notification
13 of the breach in the security of the data to any resident of this state whose unencrypted
14 personal information or file was, or is reasonably believed to have been, acquired by an
15 unauthorized person. The disclosure shall be made in the most expedient time possible and
16 without unreasonable delay, consistent with the legitimate needs of law enforcement, as
17 provided in subsection (c), or any measures necessary to determine the scope of the breach
18 and restore the reasonable integrity of the data system.

19 (b) Any agency that maintains computerized data that includes personal information that
20 the agency does not own shall notify the owner or licensee of the information of any breach
21 of the security of the data immediately following discovery, if the personal information
22 was, or is reasonably believed to have been, acquired by an unauthorized person.

23 (c) The notification required by this Code section may be delayed if a law enforcement
24 agency determines that the notification will impede a criminal investigation. The
25 notification required by this Code section shall be made after the law enforcement agency
26 determines that it will not compromise the investigation.

27 10-1-912.

28 It shall be the duty of each investigative consumer reporting agency to exercise due
29 diligence in establishing the identity, credibility, and legitimacy of each person to whom
30 the agency provides personal information and the right of such person to receive such
31 personal information.

32 10-1-913.

33 It shall be the duty of the Secretary of State to adopt rules and regulations establishing
34 guidelines which shall be followed by each investigative consumer reporting agency in

1 establishing the identity, credibility, and legitimacy of any person who buys or otherwise
2 accesses any personal information maintained by an investigative consumer reporting
3 agency."

4 **SECTION 2.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval.

7 **SECTION 3.**

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