

## House Bill 648

By: Representatives Martin of the 47<sup>th</sup>, Amerson of the 9<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Royal of the 171<sup>st</sup>, and Floyd of the 147<sup>th</sup>

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Chapter 11 of Title 10 of the Official Code of Georgia Annotated, relating to  
2 business records, so as to require a person or business that conducts business in this state and  
3 that owns or licenses computerized data that includes personal information to disclose in  
4 specified ways any breach of the security of the data to any resident of this state whose  
5 unencrypted personal information was, or is reasonably believed to have been, acquired by  
6 an unauthorized person; to permit notification to be delayed if a law enforcement agency  
7 determines that it would impede a criminal investigation; to require a person or business that  
8 maintains computerized data that includes personal information owned by another to notify  
9 the owner or licensee of the information of any breach of the security of the data; to provide  
10 for certain civil actions; to define certain terms; to amend Chapter 18 of Title 50 of the  
11 Official Code of Georgia Annotated, relating to state printing and documents, so as to require  
12 an agency that owns or licenses computerized data that includes personal information to  
13 disclose in specified ways any breach of the security of the data to any resident of this state  
14 whose unencrypted personal information was, or is reasonably believed to have been,  
15 acquired by an unauthorized person; to permit notification to be delayed if a law enforcement  
16 agency determines that it would impede a criminal investigation; to require an agency that  
17 maintains computerized data that includes personal information owned by another to notify  
18 the owner or licensee of the information of any breach of the security of the data; to define  
19 certain terms; to provide for legislative findings and declarations; to repeal conflicting laws;  
20 and for other purposes.

21                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

22                   **SECTION 1.**

23 The General Assembly finds and declares as follows:

24       (1) The privacy and financial security of individuals is increasingly at risk due to the ever  
25 more widespread collection of personal information by both the private and public  
26 sectors;

(2) Credit card transactions, magazine subscriptions, telephone numbers, real estate records, automobile registrations, consumer surveys, warranty registrations, credit reports, and Internet websites are all sources of personal information and form the source material for identity thieves;

(3) Identity theft is one of the fastest growing crimes committed in this state. Criminals who steal personal information such as social security numbers use the information to open credit card accounts, write bad checks, buy cars, and commit other financial crimes with other people's identities;

(4) Identity theft is costly to the marketplace and to consumers; and

(5) Victims of identity theft must act quickly to minimize the damage; therefore, expeditious notification of possible misuse of a person's personal information is imperative.

## SECTION 2.

Chapter 11 of Title 10 of the Official Code of Georgia Annotated, relating to business records, is amended by adding a new Code section to read as follows:

"10-11-4.

(a) As used in this Code section, the term:

(1) 'Breach of the security of the system' means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

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

(A) Social security number;

(B) Driver's license number or Georgia identification card number; or

(C) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

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

(b) Any person or business that conducts business in this state and that owns or licenses computerized data that includes personal information shall disclose any breach of the

1 security of the system following discovery or notification of the breach in the security of  
2 the data to any resident of this state whose unencrypted personal information was, or is  
3 reasonably believed to have been, acquired by an unauthorized person. The disclosure  
4 shall be made in the most expedient time possible and without unreasonable delay,  
5 consistent with the legitimate needs of law enforcement as provided in subsection (d) of  
6 this Code section or any measures necessary to determine the scope of the breach and  
7 restore the reasonable integrity of the data system.

8 (c) Any person or business that maintains computerized data that includes personal  
9 information that the person or business does not own shall notify the owner or licensee of  
10 the information of any breach of the security of the data immediately following discovery,  
11 if the personal information was, or is reasonably believed to have been, acquired by an  
12 unauthorized person.

13 (d) The notification required by this Code section may be delayed if a law enforcement  
14 agency determines that the notification will impede a criminal investigation. The  
15 notification required by this Code section shall be made after the law enforcement agency  
16 determines that it will not compromise the investigation.

17 (e) For purposes of this Code section, notice shall be provided by one of the following  
18 methods:

19 (1) Written notice;

20 (2) Electronic notice, if the notice provided is consistent with the provisions regarding  
21 electronic records and signatures set forth in Section 7001 of Title 15 of the United  
22 States Code; or

23 (3) Substitute notice, if the person or business demonstrates that the cost of providing  
24 notice would exceed \$250,000.00, the affected class of subject persons to be notified  
25 exceeds 500,000, or the person or business does not have sufficient contact information.  
26 Substitute notice shall consist of all of the following:

27 (A) E-mail notice when the person or business has an e-mail address for the subject  
28 persons;

29 (B) Conspicuous posting of the notice on the website page of the person or business,  
30 if the person or business maintains one; and

31 (C) Notification to major state-wide media.

32 (f) Notwithstanding subsection (e) of this Code section, a person or business that maintains  
33 its own notification procedures as part of an information security policy for the treatment  
34 of personal information and is otherwise consistent with the timing requirements of this  
35 Code section shall be deemed to be in compliance with the notification requirements of this  
36 Code section if the person or business notifies affected persons in accordance with its  
37 policies in the event of a breach of the security of the system.

(g)(1) Any person injured by a violation of this Code section may institute a civil action to recover damages.

(2) Any business that violates, proposes to violate, or has violated this title may be enjoined.

(3) The rights and remedies available under this subsection are cumulative to each other and to any other rights and remedies available under law."

### SECTION 3.

Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state printing and documents, is amended by adding a new article to read as follows:

"ARTICLE 8

50-18-140.

(a) As used in this Code section, the term:

(1) 'Agency' means any:

(A) State department, agency, board, bureau, commission, public corporation, or authority;

(B) County, municipal corporation, school district, or other political subdivision of this state;

(C) Department, agency, board, bureau, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of the state; or

(D) City, county, regional, or other authority established pursuant to the laws of this state.

(2) 'Breach of the security of the system' means unauthorized acquisition of

computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

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

(A) Social security number;

(B) Driver's license number or Georgia identification card number; or

1       (C) Account number, credit card number, or debit card number, in combination with  
2       any required security code, access code, or password that would permit access to an  
3       individual's financial account.

4       The term 'personal information' does not include publicly available information that is  
5       lawfully made available to the general public from federal, state, or local government  
6       records nor any information that is maintained by any law enforcement agency of the  
7       state or any county or municipality exclusively for law enforcement purposes.

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

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

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

24       (e) For purposes of this Code section, notice shall be provided by one of the following  
25      methods:

26           (1) Written notice;

27           (2) Electronic notice, if the notice provided is consistent with the provisions regarding  
28           electronic records and signatures set forth in Section 7001 of Title 15 of the United  
29           States Code; or

30           (3) Substitute notice, if the agency demonstrates that the cost of providing notice would  
31           exceed \$250,000.00, the affected class of subject persons to be notified exceeds 500,000,  
32           or the agency does not have sufficient contact information. Substitute notice shall consist  
33           of all of the following:

34              (A) E-mail notice when the agency has an e-mail address for the subject persons;

35              (B) Conspicuous posting of the notice on the agency's website page, if the agency  
36              maintains one; and

37              (C) Notification to major state-wide media.

1 (f) Notwithstanding subsection (e) of this Code section, an agency that maintains its own  
2 notification procedures as part of an information security policy for the treatment of  
3 personal information and is otherwise consistent with the timing requirements of this article  
4 shall be deemed to be in compliance with the notification requirements of this section if it  
5 notifies affected persons in accordance with its policies in the event of a breach of the  
6 security of the system."

## SECTION 4.

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