

The Senate Agriculture and Consumer Affairs Committee offered the following substitute to SB 230:

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 legislative findings; to provide definitions; to
3 require investigative consumer reporting agencies to give notice to consumers of certain
4 security breaches; to provide for related matters; to provide an effective date; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"ARTICLE 34

10 10-1-910.

11 The General Assembly finds and declares as follows:

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

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

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

23 (4) Identity theft is costly to the marketplace and to consumers; and
24

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

4 10-1-911.

5 As used in this article, the term:

6 (1) 'Breach of the security of the system' means unauthorized acquisition of a
7 individual's file or computerized data that compromises the security, confidentiality, or
8 integrity of personal information of such individual maintained by an investigative
9 consumer reporting agency. Good faith acquisition of personal information by an
10 employee or agent of an investigative consumer reporting agency for the purposes of the
11 agency is not a breach of the security of the system, provided that the personal
12 information is not used or subject to further unauthorized disclosure.

13 (2) 'File,' when used in connection with information on any individual, means all of the
14 information on that individual recorded and retained by an investigative consumer
15 reporting agency regardless of how the information is stored.

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

23 (4) 'Notice' means:

24 (A) Written notice;

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

28 (C) Substitute notice, if the investigative consumer reporting agency demonstrates that
29 the cost of providing notice would exceed \$250,000.00, that the affected class of
30 individuals to be notified exceeds 500,000, or that the investigative consumer reporting
31 agency does not have sufficient contact information to provide written or electronic
32 notice to such individuals. Substitute notice shall consist of all of the following:

33 (i) E-mail notice, if the investigative consumer reporting agency has an e-mail
34 address for the individuals to be notified;

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

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

2 Notwithstanding any provision of this paragraph to the contrary, an investigative
3 consumer reporting agency that maintains its own notification procedures as part of an
4 information security policy for the treatment of personal information and is otherwise
5 consistent with the timing requirements of this article shall be deemed to be in
6 compliance with the notification requirements of this article if it notifies the individuals
7 who are the subjects of the notice in accordance with its policies in the event of a breach
8 of the security of the system.

9 (5) 'Person' means any individual, partnership, corporation, limited liability company,
10 trust, estate, cooperative, association, or other entity. The term 'person' as used in this
11 article shall not be construed to require duplicative reporting by any individual,
12 corporation, trust, estate, cooperative, association, or other entity involved in the same
13 transaction.

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

17 (A) Social security number;

18 (B) Driver's license number of an individual or number of an individual's
19 identification card issued pursuant to Article 5 of Chapter 5 of Title 40; or

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

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

26 10-1-912.

27 (a) Any investigative consumer reporting agency that owns or licenses files or
28 computerized data that includes personal information of individuals shall give notice of any
29 breach of the security of the system following discovery or notification of the breach in the
30 security of the data to any resident of this state whose unencrypted personal information
31 or file was, or is reasonably believed to have been, acquired by an unauthorized person.
32 The notice shall be made in the most expedient time possible and without unreasonable
33 delay, consistent with the legitimate needs of law enforcement, as provided in subsection
34 (c) of this Code section, or any measures necessary to determine the scope of the breach
35 and restore the reasonable integrity of the data system.

1 (b) Any investigative consumer reporting agency that maintains computerized data that
2 includes personal information of individuals that the investigative consumer reporting
3 agency does not own shall notify the owner or licensee of the information of any breach
4 of the security of the data immediately following discovery, if the personal information
5 was, or is reasonably believed to have been, acquired by an unauthorized person.

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

10 (d) The duty of an investigative consumer reporting agency to disclose a breach of the
11 security of the system under this Code section shall apply to all such breaches occurring
12 on and after the effective date of this article and any breaches that occurred within six
13 months immediately prior to the effective date of this article."

14 **SECTION 2.**

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

17 **SECTION 3.**

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