

The House Committee on Judiciary Non-civil offers 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 information brokers to give notice to consumers of certain security breaches; to
4 provide for rights of action by certain persons in the event of a security breach; to provide
5 for a civil fine; to provide for related matters; to provide an effective date; to repeal
6 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 The General Assembly finds and declares as follows:

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

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

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

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

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

5 10-1-911.

6 As used in this article, the term:

7 (1) 'Breach of the security of the system' means unauthorized acquisition of an
8 individual's file or computerized data that compromises the security, confidentiality, or
9 integrity of personal information of such individual maintained by an information broker.

10 Good faith acquisition of personal information by an employee or agent of an information
11 broker for the purposes of such information broker is not a breach of the security of the
12 system, provided that the personal information is not used or subject to further
13 unauthorized disclosure.

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

17 (3) 'Information broker' means any person or entity who, for monetary fees or dues,
18 engages in whole or in part in the practice of collecting, assembling, evaluating,
19 compiling, reporting, transmitting, transferring, or communicating information
20 concerning individuals for the purposes of furnishing personal information to third
21 parties, but does not include any governmental agency whose records are maintained
22 primarily for traffic safety, law enforcement, or 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 information broker demonstrates that the cost of providing
29 notice would exceed \$250,000.00, that the affected class of individuals to be notified
30 exceeds 500,000, or that the information broker does not have sufficient contact
31 information to provide written or electronic notice to such individuals. Substitute
32 notice shall consist of all of the following:

33 (i) E-mail notice, if the information broker has an e-mail address for the individuals
34 to be notified;

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

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

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

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

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

16 (A) Social security number;

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

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

22 (D) Other information collected, assembled, evaluated, compiled, reported, transmitted,
23 transferred, or communicated concerning such individual.

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

27 10-1-912.

28 (a) Any information broker that owns or licenses files or computerized data that includes
29 personal information of individuals shall give notice of any breach of the security of the
30 system following discovery or notification of the breach in the security of the data to any
31 resident of this state whose unencrypted personal information or file was, or is reasonably
32 believed to have been, acquired by an unauthorized person. The notice shall be made
33 within ten days following such discovery or notification.

34 (b) Any information broker that maintains computerized data that includes personal
35 information of individuals that the information broker does not own shall notify the owner
36 or licensee of the information of any breach of the security of the data immediately

1 following discovery, if the personal information was, or is reasonably believed to have
2 been, acquired by an unauthorized person.

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

7 (d) The duty of an information broker to disclose a breach of the security of the system
8 under this Code section shall apply to all such breaches occurring on and after the effective
9 date of this article and any breaches that occurred within six months immediately prior to
10 the effective date of this article."

11 **SECTION 2.**

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

14 **SECTION 3.**

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