

**SECURITY BREACH NOTIFICATION CHART**

**Updated: May 14, 2008 – Iowa enacted a security breach notification statute effective July 1, 2008.**

This chart provides information regarding security breach notification legislation which has been enacted in U.S. jurisdictions. The pioneering statute on this issue, California's Security Breach Notification Act, is often used as a model for other state statutes.

Following this chart is a brief listing of the effective dates of security breach notification legislation.

<p><b>ARIZONA</b></p> <p>ARIZ. REV. STAT. § 44-7501</p> <p>S.B. 1338 (signed into law April 26, 2006, Chapter 232)</p> <p>Effective December 31, 2006</p>	<p><b>Application.</b> Any person or entity (collectively, "Entity") that conducts business in AZ and that owns or licenses unencrypted computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on state residents, whether or not the Entity conducts business in the state.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of and access to unencrypted or unredacted computerized data that materially compromises the security or confidentiality of PI maintained by an Entity as part of a database of PI regarding multiple individuals and that causes or is reasonably likely to cause substantial economic loss to an individual.</p> <ul style="list-style-type: none"> <li>Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security system if the PI is not used for a purpose unrelated to the Entity or subject to further willful unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall notify the individuals affected when it becomes aware of an incident of unauthorized acquisition and access to unencrypted or unredacted computerized data that includes an individual's PI.</p> <ul style="list-style-type: none"> <li>Notification is not required if after a prompt and reasonable investigation the Entity determines that there has not been a breach of the security system.</li> </ul>
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**Third Party Data Notification.** If an Entity maintains unencrypted data that includes PI that the Entity does not own, the Entity shall notify and cooperate with the owner or the licensee of the information of any breach of the security of the system following discovery of the breach without unreasonable delay. Cooperation shall include sharing information relevant to the breach of the security of the system with the owner or licensee. The person or entity that owns or licenses the computerized data shall provide notice to the individual. The Entity that maintained the data under an agreement with the owner or licensee is not required to provide notice to the individual unless the agreement stipulates otherwise.

**Timing of Notification.** The disclosure shall be made in the most expedient manner possible and without unreasonable delay consistent with any measures necessary to determine the nature and scope of the breach, to identify the individual affected or to restore the reasonable integrity of the data system.

**Personal Information Definition.** An individual's first name or first initial and last name in combination with any one or more of the following data elements, when the data element is not encrypted, redacted or secured by any other method rendering the element unreadable or unusable:

- SSN;
- Number on a driver license issued pursuant to [§ 28- 3166](#) or number on a nonoperating ID license issued pursuant to [§ 28- 3165](#);
- Financial account number or credit or debit card number in combination with any required security code, access code or password that would permit access to the individual's financial account;

PI does not include publicly available information that is lawfully made available to the general public from the federal, state or local government.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written Notice;
- Telephonic Notice;
- Electronic notice if the Entity's primary method of

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communication with the individual is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act) (Note that this does not necessarily require compliance with the E-SIGN Act).

**Substitute Notice Available.** If the Entity can demonstrate that the cost of providing notice will exceed \$50,000 or that the affected class of persons to be notified exceeds 100,000. Substitute notice shall consist of all of the following:

- Email notice if the Entity has email addresses for the individuals subject to the notice;
- Conspicuous posting of the notice on the Web site of the Entity if the Entity maintains one;
- Notification to major statewide media.

**Exception: Compliance with Other Laws**

- Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance.
- GLBA. The provisions of this statute shall not apply to any Entity who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.
- HIPAA Covered Entities. A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.

**Other key provisions:**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made after the law enforcement agency determines that notification will no longer impede the investigation.
- AG Enforcement. The AG may seek actual damages for

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	willful and knowing violations, as well as a civil penalty not to exceed \$10,000 per breach or series of similar breaches.
<p><b>ARKANSAS</b></p> <p>ARK. CODE ANN. §§ 4-110-103-108.</p> <p>S.B. 1167 (signed into law March 31, 2005, Act 1526)</p> <p>Effective August 12, 2005</p>	<p><b>Application.</b> Any person, business or state agency (collectively, "Entity") that acquires, owns, or licenses computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on AR residents, whether or not organized or licensed under the laws of AR.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of PI maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the legitimate purposes of the Entity is not a breach of the security system if the PI is not otherwise used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach of the security system to any resident of AR whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <ul style="list-style-type: none"> <li>• Notification not required if after a reasonable investigation the Entity determines there is no reasonable likelihood of harm to consumers.</li> </ul> <p><b>Third Party Data Notification.</b> If an Entity maintains computerized data that includes PI that the Entity does not own that Entity shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing Notification.</b> The disclosure shall be made in the most expedient time and manner possible and without unreasonable delay, subject to any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> An individual's first name, or first initial and his or her last name in combination with any one or more of the following data elements when either the name or the data element is not encrypted or redacted:</p>

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- SSN;
- Driver's license number or AR ID card number;
- 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; and
- Medical information (any individually identifiable information, in electronic or physical form, regarding the individual's medical history or medical treatment or diagnosis by a health care professional).

PI does not include any publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed, such as name, address, or telephone number.

**Notice Required.** Notice of breach may be provided by one of the following methods:

- Written notice;
- Electronic mail notice if the notice provided is consistent with the provisions regarding electronic methods and signatures set for in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Web site of the Entity if the Entity maintains a Web site; and
- Notification by statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with the notification requirements of the statute if the Entity notifies

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	<p>affected persons in accordance with its policies in the event of a security breach.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made after the law enforcement agency determines that notification will no longer impede the investigation.</li> <li>• AG Enforcement available.</li> </ul>
<p><b>CALIFORNIA</b></p> <p>CAL. CIV. CODE §§ 1798.82</p> <p>S.B. 1386 (signed into law September 25, 2002)</p> <p>Effective July 1, 2003</p>	<p><b>Application.</b> Any person, business, or state agency (collectively, "Entity") that does business in CA and owns or licenses computerized data that contains PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on CA residents, whether or not the Entity conducts business in CA.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any CA resident whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> If an Entity maintains computerized data that includes PI that the Entity does not own, the Entity must notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> 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</p>

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	<p>not encrypted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or CA ID card number;</li> <li>• Account number, credit or debit card number, in combination with any required security code, access code, or password (e.g., a PIN) that would permit access to an individual's financial account;</li> <li>• Medical information (any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional); or</li> <li>• Health insurance information (an individual's health insurance policy number or subscriber ID number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records);</li> </ul> <p>PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.</p> <p><b>Notice Required.</b> Notice of breaches may be provided by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice;</li> <li>• Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:</p> <ul style="list-style-type: none"> <li>• Email notice when the Entity has an email address for the subject persons;</li> <li>• Conspicuous posting of the notice on the Entity's Web site page, if the Entity maintains one;</li> </ul>
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	<ul style="list-style-type: none"> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> Any Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of the statute shall be deemed in compliance with the notification requirements of the statute if it notifies subject persons in accordance with its policies in the event of a security breach.</p> <p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notification may be delayed if the law enforcement agency determines that the notification will impede a criminal investigation. The notification required by the statute shall be made after the law enforcement agency determines that it will not compromise the investigation.</li> </ul>
<p><b>COLORADO</b> COL. REV. STAT. § 6-1-716 H.B. 1119 (signed into law April 24, 2006) Effective September 1, 2006</p>	<p><b>Application.</b> An individual or a commercial entity (collectively, "Entity") that conducts business in CO and that owns or licenses computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on CO residents, whether or not the Entity conducts business in CO.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of PI maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system if the PI is not used for or is not subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> An Entity that conducts business in CO and that owns or licenses computerized data that includes PI about a resident of CO shall, when it becomes aware of a breach of the security system, give notice as soon as possible to the affected CO resident.</p> <ul style="list-style-type: none"> <li>• Notification is not required if after a good faith, prompt and reasonable investigation the Entity determines that PI has not been and will not be misused.</li> </ul> <p><b>Third Party Data Notification.</b> If an Entity maintains computerized</p>

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data that includes PI that the Entity does not own or license the Entity shall give notice to and cooperate with the owner or licensee of the information of any breach of the security system immediately following discovery of a breach, if misuse of PI about a CO resident occurred or is likely to occur. Cooperation includes sharing with the owner or licensee information relevant to the breach; except that such cooperation shall not be deemed to require the disclosure of confidential business information or trade secrets.

**Timing of Notification.** Notice shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

**Personal Information Definition.** A CO resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when the data elements are not encrypted, redacted, or secured by any other method rendering the name or the element unreadable or unusable:

- SSN;
- Driver's license number or other ID card number;
- Account number or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account.

PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice to the postal address listed in the records of the Entity;
- Telephonic notice;
- Electronic notice, if a primary means of communication by the Entity with a Colorado resident is by electronic means or the notice provided is consistent with the provisions regarding email records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001. (Note that this does not necessarily require compliance with the E-SIGN Act).

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**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing notice will exceed \$250,000, or that the affected class of persons to be notified exceeds 250,000 Colorado residents, or Entity does not have sufficient contact information to provide notice. Substitute notice shall consist of all of the following:

- Email notice if the Entity has email addresses for the members of the affected class of Colorado residents;
- Conspicuous posting of the notice on the Web site of the Entity if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and whose procedures are otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with the notice requirements of the statute if the Entity notifies affected Colorado customers in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance
- GLBA. The provisions of this statute shall not apply to any Entity who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.

**Other key provisions:**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and the law enforcement agency has notified the Entity that conducts business in Colorado not to send notice required by the statute.
- Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the number of notices that

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	<p>the Entity provided to state residents and the timing of those notices. This obligation does not require covered entities to disclose names or other PI to the reporting agencies.</p> <ul style="list-style-type: none"> <li>• AG Enforcement. The AG may seek direct damages and injunctive relief.</li> </ul>
<p><b>CONNECTICUT</b>  CONN. GEN. STAT. § 36a-701b  S.B. 650 (signed into law June 8, 2005, Public Act 05-148)  Effective January 1, 2006</p>	<p><b>Application.</b> Any person, business or agency (collectively, "Entity") who conducts business in CT, and who, in the ordinary course of such Entity's business, owns, licenses or maintains computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on CT residents, whether or not the Entity conducts business in CT.</li> </ul> <p><b>Security Breach Definition.</b> Unauthorized access to or acquisition of electronic files, media, databases or computerized data containing PI when access to the PI has not been secured by encryption or by any other method or technology that renders the PI unreadable or unusable.</p> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of security following the discovery of the breach to any CT resident whose PI was, or is reasonably believed to have been, accessed by an unauthorized person through such breach of security.</p> <p><b>Third Party Data Notification.</b> If an Entity maintains computerized data that includes PI that the Entity does not own the Entity shall notify the owner or licensee of the information of any breach of the security of the data immediately following its discovery if the PI was, or is reasonably believed to have been accessed by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure shall be made without unreasonable delay, consistent with any measures necessary to determine the nature and scope of the breach, to identify individuals affected, or to restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any one, or more, of the following data:</p> <ul style="list-style-type: none"> <li>• SSN;</li> </ul>

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- Driver's license number or CT ID card number;
- Account number, credit 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.

PI does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Telephonic notice;
- Electronic notice, provided such notice is consistent with the provisions regarding electronic records and signature set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000 persons, or the Entity does not have sufficient contact information. Substitute notice shall consist of all the following:

- Email notice when the Entity has an email address for the affected persons;
- Conspicuous posting of the notice on the Web site of the Entity if the Entity maintains one; and
- Notification to major statewide media, including newspapers, radio and television.

**Exception: Own Notification Policy.** Any Entity that maintains such Entity's own security breach procedures as part of an information security policy for the treatment of PI and otherwise complies with the timing requirements of the statute, shall be deemed to be in compliance with the security breach notification requirements of the statute, provided such Entity notifies subject persons in accordance with such Entity's policies in the event of a breach of security.

**Exception: Compliance with Other Laws.**

- Primary Regulator. Notification pursuant to laws, rules,

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	<p>regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed for a reasonable period of time if a law enforcement agency determines that the notice will impede a criminal investigation and such law enforcement agency has made a request that notification be delayed. Notice required by the statute must be made after the law enforcement agency determines that notification will no longer impede the investigation and so notifies the Entity of such determination.</li> <li>• AG Enforcement. The AG may seek direct damages and injunctive relief.</li> </ul>
<p><b>DELAWARE</b></p> <p>DEL. CODE ANN. Tit. 6, §§ 12B-101-104.</p> <p>H.B. 116 (signed into law June 28, 2005)</p> <p>Effective June 28, 2005</p>	<p><b>Application.</b> Any individual or commercial entity (collectively, "Entity") that conducts business in DE and that owns or licenses computerized data that includes PI about a resident of DE.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on DE residents, whether or not the Entity conducts business in DE.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of PI maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall, when it becomes aware of a breach of the security of the system, notify the affected DE resident.</p> <ul style="list-style-type: none"> <li>• Notification not required if after a good faith, reasonable and prompt investigation the Entity determines there is no reasonable likelihood of harm to consumers.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI that the Entity does not own or license shall give notice to and cooperate with the owner or licensee of</p>

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the information of any breach of the security of the system immediately following discovery of the breach, if misuse of PI about a DE resident occurred or is reasonably likely to occur. Cooperation includes sharing with the owner or licensee information relevant to the breach.

**Timing of Notification.** Notice shall be made in good faith, in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

**Personal Information Definition.** A DE resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when either the name or the data elements are not encrypted:

- SSN;
- Driver's license number or DE ID card number;
- Account number, or credit or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account;

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Telephonic notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing notice will exceed \$75,000, or that the affected class of DE residents to be notified exceeds 100,000 residents, or the Entity does not have sufficient contact information to provide notice. Substitute notice shall consist of all of the following:

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	<ul style="list-style-type: none"> <li>• Email notice if the Entity has email addresses for the members of the affected class of DE residents;</li> <li>• Conspicuous posting of the notice on the Web site page of the Entity if the Entity maintains one;</li> <li>• Notice to major statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> An Entity that maintains its own notification procedures as part of its information security policy for the treatment of PI, and whose procedures are otherwise consistent with the timing requirements of the statute is deemed to be in compliance with the notice requirements of this statute if the Entity notifies affected DE residents in accordance with its policies in the event of a breach of security of the system.</p> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.</li> <li>• AG Enforcement available.</li> </ul>
<p><b>DISTRICT OF COLUMBIA</b></p> <p>D.C. STAT. § 28-3851</p> <p>COUNCIL BILL NO. 16-810 (signed into law March 8, 2007)</p> <p>Effective March 8, 2007</p>	<p><b>Application.</b> Any person or entity (collectively, "Entity") who conducts business in DC, and who, in the course of such business, owns or licenses computerized or other electronic data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on DC residents, whether or not the Entity conducts business in DC.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized or other electronic data, or any equipment or device storing such data, that compromises the security, confidentiality, or</p>

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	<p>integrity of PI maintained by the person or business.</p> <ul style="list-style-type: none"> <li>• Acquisition of data that has been rendered secure, so as to be unusable by an unauthorized third party, shall not be deemed to be a breach of the security system.</li> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security system if the PI is not used improperly or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies, and who discovers a breach of the security system, shall promptly notify any DC resident whose PI was included in the breach.</p> <p><b>Third Party Data Notification.</b> Any Entity that maintains, handles, or otherwise possesses computerized or other electronic data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the system in the most expedient time possible following discovery.</p> <p><b>Timing of Notification.</b> The notification shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> Any number or code or combination of numbers or codes, such as account number, security code, access code, or password, that allows access to or use of an individual's financial or credit account; or an individual's first name or first initial and last name, or phone number, or address, and any one or more of the following data elements:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or DC ID card number; or</li> <li>• Credit card number or debit card number.</li> </ul> <p><b>Notice Required.</b> Notice of breaches may be provided by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice;</li> <li>• Electronic notice, if the customer has consented to receipt of electronic notice consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114</li> </ul>
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Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice to persons subject to the statute would exceed \$50,000, that the number of persons to receive notice under the statute exceeds 100,000, or that the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Web site page of the Entity if the Entity maintains one; and
- Notice to major local and, if applicable, national media.

**Exception: Own Notification Policy.** Any Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and whose procedures are otherwise consistent with the timing requirements of the statute shall be deemed in compliance with the notification requirements of the statute if the Entity provides notice, in accordance with its policies, reasonably calculated to give actual notice to persons to whom notice is otherwise required to be given under the statute.

- Notice under this section may be given by email if the Entity's primary method of communication with the DC resident is by email.

**Exception: Compliance with Other Laws.**

- GLBA. The provisions of this statute shall not apply to any Entity who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.

**Other Key Provisions:**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.
- Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as

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	<p>defined by 15 U.S.C. § 1618a(p), of the number of notices that the Entity provided to state residents and the timing of those notices. This obligation does not require covered Entities to disclose names or other PI to the reporting agencies.</p> <ul style="list-style-type: none"><li>• AG Enforcement. The AG may seek direct damages and injunctive relief.</li><li>• Statute does not permit waiver by contract or other means.</li></ul>
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**FLORIDA**

FLA. STAT. § 817.5681

H.B. 481 (signed into law June 14, 2005)

Effective July 1, 2005

**Application.** Any person, firm, association, joint adventure, partnership, syndicate, corporation, and all other groups or combinations (collectively, "Entity") who conducts business in FL and maintains computerized data in a system that includes PI.

- The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on FL residents, whether or not the Entity conducts business in FL.

**Security Breach Definition.** An unlawful and unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of PI maintained by the person.

- Good faith acquisition of PI by an employee or agent of the Entity is not a breach of the security system, provided the information is not used for a purpose unrelated to the business or subject to further unauthorized use.

**Notification Obligation.** An Entity that conducts business in FL and maintains computerized data in a system that includes PI shall provide notice of any breach of the security system, following a determination of the breach, to any resident of FL whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.

- Notification is not required if, after an appropriate investigation or after consultation with relevant federal, state, and local agencies responsible for law enforcement, the Entity reasonably determines that the breach has not and will not likely result in harm to the individuals whose PI has been acquired and accessed. Such a determination must be documented in writing and the documents must be maintained for 5 years.

**Third Party Data Notification.** Any Entity that maintains computerized data that includes PI on behalf of another business entity shall disclose to the business entity for which the information is maintained any breach of the security of the system as soon as practicable, but no later than 10 days following the determination, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person. The Entity that maintains the data on behalf of another business entity and the business entity on whose behalf the data is maintained may agree who will provide the notice, if any is required, provided only a single notice for each breach of the security system shall be required. If agreement regarding notification cannot be reached, the entity who has the direct business relationship with the

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FL resident shall be subject to these provisions.

**Timing of Notification.** Notification shall be made without unreasonable delay, subject to any measures necessary to determine the presence, nature, and scope of the breach and restore the reasonable integrity of the system.

- Notification must be made no later than 45 days following the determination of the breach.

**Personal Information Definition.** An individual's first name, first initial and last name, or any middle name and last name, in combination with any one or more of the following data elements when the data elements are not encrypted:

- SSN;
- Driver's license or FL ID card number;
- 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.

PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the Entity has a valid email address for the subject person and the subject person has agreed to accept communications electronically, or if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act) (Note that this does not necessarily require compliance with the E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the

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	<p>subject persons;</p> <ul style="list-style-type: none"> <li>• Conspicuous posting of the notice on the Web site of the Entity, if the Entity maintains a Web site;</li> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> Any Entity who maintains its own notification procedures as part of an information security or privacy policy for the treatment of PI, which procedures are otherwise consistent with the timing requirements of this statute, shall be deemed in compliance with the notification requirements of the statute if the Entity notifies subject persons in accordance with the Entity's policies in the event of a breach of security of the system.</p> <p><b>Penalties.</b> An Entity that violates the statute in the following manner is subject to the following administrative fines:</p> <ul style="list-style-type: none"> <li>• An Entity that fails to notify subject persons or another Entity following the determination of a breach is liable for a fine per breach, not to exceed \$500,000, i) in the amount of \$1,000 for each day the breach goes undisclosed for up to 30 days and, thereafter, \$50,000 for each 30-day period or portion thereof for up to 180 days; or ii) if notification is not made within 180 days, any Entity required to make notification who fails to do so is subject to a fine of up to \$500,000.</li> <li>• An Entity required to document a failure to notify affected persons who fails to document the failure, or who, if documentation was created, fails to maintain the documentation for the full 5 years is liable for a fine of up to \$50,000 for such failure.</li> </ul> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will</li> </ul>
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	<p>no longer impede the investigation.</p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the number of notices that the Entity provided to state residents and the timing and content of those notices.</li> <li>• Department of Legal Affairs (DLA) Enforcement. Allows the DLA to assess and collect the fines provided under the statute.</li> </ul>
<p><b>GEORGIA</b> GA. CODE ANN. §§ 10-1-911-912.  S.B. 230 (signed into law May 5, 2005)  Effective May 5, 2005</p>	<p><b>Application.</b> Any person or entity who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating information concerning individuals for the primary purpose of furnishing PI to nonaffiliated third parties, or any state or local agency or subdivision thereof including any department, bureau, authority, public university or college, academy, commission, or other government entity (collectively, "Entity") that maintains computerized data that includes PI of individuals. The statute shall not apply to any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes or for purposes of providing public access to court records or to real or personal property information.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on GA residents, whether or not organized or licensed under the laws of GA.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of an individual's electronic data that compromises the security, confidentiality, or integrity of PI of such individual maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition or use of PI by an employee or agent of an Entity for the purposes of such Entity is not a breach of the security of the system, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity that maintains computerized data that includes PI of individuals shall give notice of any breach of the security of the system following discovery or notification of the breach to any resident of GA whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p>

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**Third Party Data Notification.** If an Entity maintains computerized data on behalf of another Entity that includes PI of individuals that the Entity does not own shall notify the other Entity of any breach of the security of the system within 24 hours following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.

**Timing of Notification.** The notice shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

**Personal Information Definition.** 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 or redacted:

- SSN;
- Driver's license or GA ID card number;
- Account number, credit card number, or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes, or passwords;
- Account passwords or personal ID numbers or other access codes; or
- Any of the above items when not in connection with the individual's first name or first initial and last name, if the information compromised would be sufficient to perform or attempt to perform identity theft against the person whose information was compromised.

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

**Notice Required.** Notices of breaches may be provided by one of the following methods:

- Written notice;
- Telephone notice;

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- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If an Entity demonstrates that the cost of providing notice would exceed \$50,000, that the affected class of individual's to be notified exceeds 100,000, or that the Entity does not have sufficient contact information to provide written or electronic notice to such individuals. Substitute notice shall consist of all of the following:

- Email notice, if the Entity has an email address for the individuals to be notified;
- Conspicuous posting of the notice on the Entity's Web site page, if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and whose procedures are otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with the notification requirements of the statute if it notifies the individuals who are the subjects of the notice in accordance with its policies in the event of a breach of the security of the system.

**Other key provisions:**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.
- Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the timing, distribution and content of those notices.

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<p><b>HAWAII</b></p> <p>26 HAW. REV. STAT. 26.487N-1-4.</p> <p>S.B. 2290 (signed into law May 25, 2006, Act 135)</p> <p>Effective January 1, 2007</p>	<p><b>Application.</b> Any sole proprietorship, partnership, corporation, association, or other group, however organized, and whether or not organized to operate at a profit, including financial institutions organized, chartered, or holding a license or authorization certificate under the laws of HI, any other state, the US, or any other country, or the parent or the subsidiary of any such financial institution, and any entity whose business is records destruction, or any government agency that collects PI for specific government purposes (collectively, "Entity") that owns or licenses PI of residents of HI in any form (whether computerized, paper, or otherwise).</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on HI residents, whether or not the Entity conducts business in HI.</li> </ul> <p><b>Security Breach Definition.</b> Any unauthorized access to and acquisition of unencrypted or unredacted records or data containing PI where illegal use of the PI has occurred, or is reasonably likely to occur, where such unauthorized access and acquisition creates a risk of harm to a person. Any incident of unauthorized access to and acquisition of encrypted records or data containing PI along with the confidential process or key constitutes a security breach.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for a legitimate purpose is not a security breach, provided that the PI is not used for a purpose other than a lawful purpose of the business and is not subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall provide notice to the affected person of a security breach following discovery or notification of the breach.</p> <p><b>Notification Obligation for Government Agencies.</b> A government agency shall submit a written report to the legislature within 20 days after discovery of a security breach at the government agency that details information relating to the nature of the breach, the number of individuals affected by the breach, a copy of the notice of security breach that was issued, the number of individuals to whom the notice was sent, whether the notice was delayed due to law enforcement considerations, and any procedures that have been implemented to prevent the breach from reoccurring. In the event that a law enforcement agency informs the government agency that notification may impede a criminal investigation or jeopardize national security, the report to the legislature may be delayed until 20 days after the law enforcement agency has determined that notice will no longer impede</p>
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the investigation or jeopardize national security.

**Third Party Data Notification.** Any business located in HI or any business that conducts business in HI that maintains or possesses records or data containing PI of residents of HI that the business does not own or license, shall notify the owner or licensee of the PI of any security breach immediately following discovery of the breach.

**Timing of Notification.** The disclosure notification shall be made without unreasonable delay, consistent with any measures necessary to determine sufficient contact information, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data system.

**Personal Information Definition.** 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:

- SSN;
- Driver's license number or HI ID card number; or
- Account number, credit or debit card number, access code, or password that would permit access to an individual's financial account.

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice to the last available address the Entity has on record;
- Telephonic notice, provided that contact is made directly with the affected persons;
- Email notice, for those persons for whom an Entity has a valid email address and who have agreed to receive communications electronically if the notice provided is consistent with the provisions regarding electronic records and signatures for notices legally required to be in writing set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act);

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	<p>The notice shall be clear and conspicuous and shall include a description of the following:</p> <ul style="list-style-type: none"> <li>• The incident in general terms;</li> <li>• The type of PI that was subject to the unauthorized access and acquisition;</li> <li>• The general acts of the Entity to protect the PI from further unauthorized access;</li> <li>• A telephone number that the person may call for further information and assistance, if one exists; and</li> <li>• Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$100,000, or that the affected class of subject persons to be notified exceeds 200,000, or if the Entity does not have sufficient contact information or consent to satisfy the required notice, for only those affected persons without sufficient contact information or consent, or if the Entity is unable to identify particular affected persons, for only those unidentifiable affected persons. Substitute notice shall consist of all the following:</p> <ul style="list-style-type: none"> <li>• Email notice when the Entity has an email address for the subject persons;</li> <li>• Conspicuous posting of the notice on the Web site page of the Entity, if one is maintained; and</li> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Compliance with Other Laws</b></p> <ul style="list-style-type: none"> <li>• Federal Interagency Guidance. A financial institution that is subject to and in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said interagency guidance, shall be deemed to be in compliance.</li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>HIPAA Covered Entities.</b> A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.</li> </ul> <p><b>Penalties.</b> Subjects any Entity that violates any provisions of the statute to penalties of not more than \$2,500 for each violation.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• <b>Delay for Law Enforcement.</b> Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation or jeopardize national security and requests a delay; provided that such request is made in writing, or the Entity documents the request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. The notice shall be provided without unreasonable delay after the law enforcement agency communicates to the Entity its determination that notice will no longer impede the investigation or jeopardize national security.</li> <li>• <b>Notification to Consumer Reporting Agencies.</b> If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the timing, distribution, content and timing of those notices.</li> <li>• Statute does not permit waiver by contract or other means.</li> <li>• AG Enforcement available.</li> </ul>
<p><b>IDAHO</b> IDAHO CODE §§ 28-51-104-105 S.B. 1374 (signed into law March 30, 2006, Chapter 258)</p>	<p><b>Application.</b> Any agency, individual or commercial entity (collectively, "Entity") that conducts business in ID and that owns or licenses computerized data that includes PI about a resident of ID.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining</li> </ul>

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<p>Effective July 1, 2006</p>	<p>information on ID residents, whether or not the Entity conducts business in ID.</p> <p><b>Security Breach Definition.</b> An illegal acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of PI for one or more persons maintained by Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> An Entity to which the statute applies shall give notice as soon as possible to the affected ID resident.</p> <ul style="list-style-type: none"> <li>• Notification is not required if after a good faith, reasonable and prompt investigation the Entity determines that the PI has not been and will not be misused.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI that the Entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system immediately following discovery of the breach, if misuse of PI about an ID resident occurred or is reasonably likely to occur. Cooperation includes sharing with the owner or licensee information relevant to the breach.</p> <p><b>Timing of Notification.</b> Notice must be made in the most expedient time possible and without unreasonable delay, consistent with the any measures necessary to determine the scope of the breach, to identify the individuals affected, and to restore the reasonable integrity of the computerized data system.</p> <p><b>Personal Information Definition.</b> An ID resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when either the name or the data element are not encrypted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or ID card number; or</li> <li>• Account number, or credit card number, in combination with any required security code, access code or password that would permit access to a resident's financial account.</li> </ul>
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**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice to the most recent address the Entity has in its records;
- Telephonic notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing notice would exceed \$25,000, or that the number of ID residents to be notified exceeds 50,000, or that the Entity does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

- Email notice if the Entity has email addresses for the affected ID residents; and
- Conspicuous posting of the notice on the Web site page of the Entity if the Entity maintains one; and
- Notice to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own notice procedures as part of an information security policy for the treatment of PI, and whose procedures are otherwise consistent with the timing requirements of the statute is deemed to be in compliance with the notice requirements if the Entity notifies affected ID residents in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state regulator is sufficient for compliance.

**Penalties.** Any Entity that *intentionally* fails to give notice in accordance with the statute shall be subject to a fine of not more than \$25,000 per breach of the security of the system.

**Other key provisions:**

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	<ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.</li> <li>• Primary State Regulator Enforcement. Authorizes primary state regulator to bring a civil action against an Entity that it believes to have violated the statute by failing to give notice to enforce compliance with the statute and enjoin the Entity from further violation.</li> </ul>
<p><b>ILLINOIS</b></p> <p>815 ILL. COMP. STAT. 530/5, 530/10, 530/12, 530/15, 530/20, 530/25</p> <p>H.B. 1633 (signed into law June 16, 2005, Public Act 94-36)</p> <p>Effective June 27, 2006</p>	<p><b>Application.</b> Any data collector, which includes, but is not limited to, government agencies, public and private universities, privately and publicly held corporations, financial institutions, retail operators, and any other entity that, for any purpose, handles, collects, disseminates, or otherwise deals with nonpublic PI (collectively, "Entity") that owns or licenses PI concerning an IL resident.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on IL residents, whether or not the Entity conducts business in IL.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for a legitimate purpose of the Entity does not constitute a security breach, provided that the PI is not used for a purpose unrelated to the Entity's business or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall notify the resident at no charge that there has been a breach of the security of the system data following discovery or notification of the breach.</p> <p><b>Notification Obligation for State Agencies.</b> Any state agency that collects PI and has had a breach of security of the system data or <i>written material</i> shall submit a report within 5 business days of the discovery or notification of the breach to the General Assembly listing the breaches and outlining any corrective measures that have been taken to prevent future breaches of the security of the system data or</p>

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*written material.* Any agency that has submitted a report under the statute shall submit an annual report listing all breaches of security of the system data or *written materials* and the corrective measures that have been taken to prevent future breaches

**Third Party Data Notification.** Any Entity that maintains computerized data that includes PI that the Entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.

**Timing of Notification.** The disclosure notification shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

**Personal Information Definition.** 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 or redacted:

- SSN;
- Driver's license number or IL ID card number;
- Account number or credit or debit card number, or an account number or credit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account.

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures for notices legally required to be in writing as set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost

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	<p>of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:</p> <ul style="list-style-type: none"> <li>• Email notice if the Entity has an email address for the subject persons;</li> <li>• Conspicuous posting of the notice on the Entity's Web site page if the Entity maintains one; and</li> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with timing requirements of the statute, shall be deemed in compliance with the notification requirements of the statute if the Entity notifies subject persons in accordance with its policies in the event of a breach of the security of the system data.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and provides the Entity with a written request of delay. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.</li> <li>• Violation constitutes unlawful practice under Consumer Fraud and Deceptive Business Practices Act.</li> <li>• Statute does not permit waiver by contract or other means. .</li> </ul>
<p><b>INDIANA</b>  IND. CODE § 24-4.9-3-1, <i>et seq.</i>  S.B. 503 (signed into law April 26, 2005, Act 503)  Effective July 1, 2006</p>	<p><b>Application.</b> Any individual, corporation, business trust, estate, trust, partnership, association, nonprofit corporation or organization, cooperative, or any other legal entity (collectively, "Entity") that owns or licenses computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on IN residents, whether or not organized or licensed under the laws of IN.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security, confidentiality, or</p>

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integrity of PI maintained by a person. The term includes the unauthorized acquisition of computerized data that has been transferred to another medium, including paper, microfilm, or a similar medium, even if the transferred data are no longer in a computerized format.

- Until July 1, 2008: Unauthorized acquisition of a portable electronic device on which PI is stored does not constitute a security breach, if access to the device is protected by a password that has not been disclosed.
- As of July 1 2008: Unauthorized acquisition of a portable electronic device on which personal information is stored does not constitute a security breach if all personal information on the device is protected by encryption and the encryption key: (a) has not been compromised or disclosed; and (b) is not in the possession of or known to the person who, without authorization, acquired or has access to the portable electronic device.
- Good faith acquisition of PI by an employee or agent of the Entity for lawful purposes the Entity does not constitute a security breach, if the PI is not used or subject to further unauthorized disclosure.

**Notification Obligation.** Any Entity, after discovering or being notified of a breach of the security of a system, shall disclose the breach to an IN resident whose unencrypted PI was or may have been acquired by an unauthorized person; or encrypted PI was or may have been acquired by an unauthorized person with access to the encryption key; if the Entity knows, or should know, or should have known that the unauthorized acquisition constituting the breach has resulted in or could result in identity deception (as defined in IND. CODE § 35-43-5-3.5), identity theft, or fraud affected the IN resident.

**Third Party Data Notification.** An Entity that maintains computerized data that includes PI but that does not own or license the PI shall notify the owner of the PI if the Entity discovers that PI was or may have been acquired by an unauthorized person.

**Timing of Notification.** The disclosure shall be made after the Entity discovers or is notified of a breach of the security system.

**Personal Information Definition.** A SSN number that is not encrypted or redacted; or an individual's first and last names, or first initial and last name, and one or more of the following data elements that are not encrypted or redacted:

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- A driver's license number or IN ID card number;
- A credit card number;
- A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

PI does not include information that is lawfully obtained from publicly available information or from federal, state, or local government records lawfully made available to the general public.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Mail;
- Telephone;
- Fax;
- Email, if the Entity has the email address of the affected IN resident.

**Substitute Notice Available.** If an Entity demonstrates that the cost of the disclosure exceeds \$250,000, or that the affected class of subject persons to be notified exceeds 500,000. Substitute notice shall consist of all of the following:

- Conspicuous posting of the notice on the Web site of the Entity, if the Entity maintains a Web site;
- Notice to major news reporting media in the geographic area where IN residents affected by the breach of the security of a system reside.

**Exception: Own Notification Policy.** Any Entity that maintains its own disclosure procedures as part of an information privacy policy or a security policy is not required to make a separate disclosure under the statute if the Entity's information privacy policy or security policy is at least as stringent as the disclosure requirements under the statute.

**Exception: Compliance with Other Laws.**

- GLBA. The provisions of this statute shall not apply to any Entity who is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.

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	<ul style="list-style-type: none"> <li>• Federal Interagency Guidance. A financial institution that is subject to and in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said interagency guidance, shall be deemed to be in compliance (only applies to financial institutions).</li> <li>• HIPAA Covered Entities. A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.</li> <li>• The USA Patriot Act (P.L. 107-56);</li> <li>• Executive Order 13224;</li> <li>• The federal Driver's Privacy Protection Act (18 U.S.C. 2781 et seq.);</li> <li>• The federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).</li> </ul> <p><b>Other Key Provisions.</b></p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of any information necessary to assist the consumer reporting agency in preventing fraud, including PI of an IN resident affected by the breach of the security system.</li> <li>• AG Enforcement. The AG may seek direct damages and injunctive relief.</li> </ul>
<p><b>IOWA</b> 2007 S.F. 2308 (signed into law)</p>	<p><b>Application.</b> Any individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture;</p>

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May 9, 2008)

Effective July 1, 2008

government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity (collectively, "Entity") that owns or licenses computerized data that includes a IA resident's PI that is used in the course of the Entity's business, vocation, occupation, or volunteer activities and that was subject to a breach of security.

**Security Breach Definition.** Unauthorized acquisition of PI maintained in computerized form by an Entity that compromises the security, confidentiality, or integrity of the PI.

- Good faith acquisition of PI by an Entity or that Entity's employee or agent for a legitimate purpose of that Entity is not a breach of security, provided that the PI is not used in violation of applicable law or in a manner that harms or poses an actual threat to the security, confidentiality, or integrity of the PI.

**Notification Obligation.** Any Entity to which the statute applies, shall give notice of the breach of security following discovery of such breach of security, or receipt of notification of such breach, to any IA resident whose PI was included in the information that was breached.

- Notification is not required if, after an appropriate investigation or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the Entity determines that no reasonable likelihood of financial harm to the IA residents whose PI has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years.

**Third Party Data Notification.** Any Entity who maintains or otherwise possesses PI on behalf of another Entity shall notify the owner or licensor of the information of any breach of security immediately following discovery of such breach of security if an IA resident's PI was included in the information that was breached.

**Timing of Notification.** The notification shall be made in the most expeditious manner possible and without unreasonable delay, consistent with any measures necessary to sufficiently determine contact information for the affected IA residents, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data.

**Personal Information Definition.** An individual's first name or first initial and last name in combination with any one or more of the

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following data elements that relate to the individual if any of the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable:

- SSN;
- Driver's license number or other unique identification number created or collected by a government body;
- Financial 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;
- Unique electronic identifier or routing code, in combination with any required security code, access code, or password that would permit access to an individual's financial account;
- Unique biometric data, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data.

PI does not include information that is lawfully obtained from publicly available sources, or from federal, state, or local government records lawfully made available to the general public.

**Notice Required.** Notice pursuant to this section shall include, at a minimum, all of the following:

- A description of the breach of security;
- The approximate date of the breach of security;
- The type of PI obtained as a result of the breach of security;
- Contact information for consumer reporting agencies; and
- Advice to the consumer to report suspected incidents of identity theft to local law enforcement or the attorney general.

Notification may be provided by one of the following methods:

- Written notice to the last available address the Entity has in the Entity's records.
- Electronic notice if the Entity's customary method of communication with the resident is by electronic means or is

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consistent with the provisions regarding electronic records and signatures set forth in chapter 554D and the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, that the affected class of IA residents to be notified exceeds 350,000 persons, or if the Entity does not have sufficient contact information to provide notice. Substitute notice shall consist of the following:

- Electronic mail notice when the Entity has an electronic mail address for the affected IA residents;
- Conspicuous posting of the notice or a link to the notice on the internet web site of the Entity if the Entity maintains an internet web site;
- Notification to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own disclosure procedures as part of an information privacy policy or a security policy is not required to make a separate disclosure under the statute if the Entity's information privacy policy or security policy is at least as stringent as the disclosure requirements under the statute.

**Exception: Compliance with Other Laws.**

- Federal Regulator. This statute does not apply to an Entity that complies with notification requirements or breach of security procedures that provide greater protection to PI and at least as thorough disclosure requirements than that provided by this section pursuant to the rules, regulations, procedures, guidance, or guidelines established by the Entity's primary or functional federal regulator.
- More Protective Law. This statute does not apply to an Entity that complies with a state or federal law that provides greater protection to PI and at least as thorough disclosure requirements for breach of security or PI than that provided by the statute.
- GLBA. This statute does not apply to an Entity that is subject to and complies with regulations promulgated pursuant to Title V of the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. § 6801-6809.

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	<p><b>Other Key Provisions.</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement: The consumer notification requirements of this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and the agency has made a written request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the Entity required to give notice in writing.</li> <li>• AG Enforcement</li> </ul>
<p><b>KANSAS</b>  Kansas Stat. §§ 50-7a01-02,  S.B. 196 (signed into law April 19, 2006)  Effective January 1, 2007</p>	<p><b>Application.</b> Any individual, partnership, corporation, trust, estate, cooperative, association, government, or governmental subdivision or agency or other entity (collectively, "Entity") that conducts business in KS and that owns or licenses computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on KS residents, whether or not the Entity conducts business in KS.</li> </ul> <p><b>Security Breach Definition.</b> Any unauthorized access to and acquisition of unencrypted or unredacted computerized data that compromises the security, confidentiality or integrity of PI maintained by an Entity and that causes, or such Entity reasonably believes has caused or will cause, identity theft to any consumer.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used for or is not subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall, when it becomes aware of any breach of the security of the system, give notice as soon as possible to the affected KS resident.</p> <ul style="list-style-type: none"> <li>• Notification is not required if after a good faith, reasonable and prompt investigation the Entity determines that the PI has not been and will not be misused.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI that the Entity does not own or license shall give notice to the owner or licensee of the information of</p>

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any breach of the security of the data following discovery of a breach, if the PI was, or is reasonably believed to have been, accessed and acquired by an unauthorized person.

**Timing of Notification.** Notice must be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

**Personal Information Definition.** A consumer's first name or first initial and last name linked to any one or more of the following data elements that relate to the consumer, when the data elements are neither encrypted nor redacted:

- SSN;
- Driver's license number or KS ID card number;
- Financial account number, or credit or debit card number, alone or in combination with any required security code, access code or password that would permit access to a consumer's financial account.

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing notice will exceed \$100,000, or that the affected class of consumers to be notified exceeds 5,000, or that the Entity does not have sufficient contact information to provide notice. Substitute notice shall consist of all of the following:

- Email notice, if the Entity has email addresses for the affected class of consumers;
- Conspicuous posting of the notice on the Web site page of the

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	<p>Entity if the Entity maintains a Web site;</p> <ul style="list-style-type: none"> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI, and whose procedures are otherwise consistent with the timing requirements of the statute, is deemed to be in compliance with the notice requirements of the statute if the Entity notifies affected consumers in accordance with its policies in the event of a breach of security of the system.</p> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state or federal regulator is sufficient for compliance.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.</li> <li>• <b>Notification to Consumer Reporting Agencies.</b> If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the timing, distribution and content of those notices.</li> <li>• AG Enforcement. Allows the state AG (or insurance commissioner in the case of an insurance company) to bring actions at law or equity to force compliance and enjoin future violations.</li> </ul>
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<p><b>LOUISIANA</b></p> <p>LA. REV. STAT. ANN. TIT. 51 §§ 3071 <i>et seq.</i></p> <p>S.B. 205 (signed into law July 12, 2005, Act 499)</p> <p>Effective January 1, 2006</p>	<p><b>Application.</b> Any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity that conducts business in LA or that owns licenses computerized data that includes PI, or any agency that owns or licenses computerized data that includes PI (collectively, "Entity").</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on LA residents, whether or not the Entity conducts business in LA.</li> </ul> <p><b>Security Breach Definition.</b> The compromise of the security, confidentiality, or integrity of computerized data that results in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to PI maintained by an Entity.</p> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall, following discovery of a breach of the security of the system containing such data, notify any resident of the state whose PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <ul style="list-style-type: none"> <li>• Notification is not required if after a reasonable investigation the Entity determines that there is not a reasonable likelihood of harm to customers.</li> </ul> <p><b>Third Party Data Notification.</b> Any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, or any other legal entity that maintains computerized data that includes PI that the agency or person does not own shall notify the owner or licensee of the information if the PI was, or is reasonably believed to have been, acquired by an unauthorized person through a breach of security of the system containing such data, following discovery by the agency or person of a breach of the security system.</p> <p><b>Timing of Notification.</b> The notification required pursuant to the statute shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name or the data element is not encrypted or redacted:</p>
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- SSN;
- Driver's license number;
- Account number, credit 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.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notification;
- Electronic notification, if the notification provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If an Entity demonstrates that the cost of providing notification would exceed \$250,000, or that the affected class of persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall contain all of the following:

- Email notification when the Entity has an email address for the subject persons;
- Conspicuous posting of the notification on the Internet site of the Entity, if an Internet site is maintained;
- Notification to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains notification procedures as part of its information security policy for the treatment of PI which is otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with the notification requirements of the statute if the Entity notifies subject persons in accordance with the policy and procedures in the event of a breach of a security of the system.

**Exception: Compliance with Other Laws.**

- Federal Interagency Guidance. A financial institution that is subject to and in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve

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	<p>System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said interagency guidance, shall be deemed to be in compliance</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.</li> </ul>
<p><b>MAINE</b></p> <p>ME. REV. STAT. ANN. tit. 10, §§ 1347-1348.</p> <p>L.D. 1671 (signed into law June 10, 2005, Chapter 379)</p> <p>Effective January 31, 2006</p>	<p><b>Application.</b> Any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association or other entity, including agencies of state government, the University of Maine System, the Maine Community College System, Maine Maritime Academy and private colleges and universities, or any information broker, which means a person who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring or communicating information concerning individuals for the primary purpose of furnishing PI to nonaffiliated third parties (collectively, "Entity") that maintains computerized data that includes PI. The provisions governing maintenance of PI are applicable to any Entity maintaining information on ME residents, whether or not organized or licensed under the laws of ME.</p> <p><b>Security Breach Definition.</b> An unauthorized acquisition of an individual's computerized data that compromises the security, confidentiality or integrity of PI of the individual maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity on behalf of the Entity is not a breach of the security of the system if the PI is not used for or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> If an Entity that maintains computerized data that includes PI becomes aware of a breach of the security of the system, the Entity shall give notice of the breach following discovery or notification of the security breach to a resident of ME whose PI has</p>

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been, or is reasonably believed to have been, acquired by an unauthorized person.

**Third Party Data Notification.** A third party Entity that maintains, on behalf of another Entity, computerized data that includes PI that the third party Entity does not own shall notify the owner of the PI of a breach of the security of the system immediately following discovery if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.

**Timing of Notification.** The notices must be made as expediently as possible and without unreasonable delay, consistent with measures necessary to determine the scope of the security breach and restore the reasonable integrity, security and confidentiality of the data in the system.

**Personal Information Definition.** 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 or redacted:

- SSN;
- Driver's license number or ME ID card number;
- Account number, credit card number or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes or passwords;
- Account passwords or PI numbers or other access codes;
- Any of the above data elements when not in connection with the individual's first name, or first initial, and last name, if the information if compromised would be sufficient to permit a person to fraudulently assume or attempt to assume the identity of the person whose information was compromised.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

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	<p><b>Substitute Notice Available.</b> If the Entity maintaining PI demonstrates that the cost of providing notice would exceed \$5,000, that the affected class of individuals to be notified exceeds 1,000, or that the person maintaining PI does not have sufficient contact information to provide written or electronic notice to those individuals. Substitute notice shall consist of all of the following:</p> <ul style="list-style-type: none"> <li>• Email notice, if the Entity has email addresses for the individuals to be notified;</li> <li>• Conspicuous posting of the notice on the Entity's publicly accessible Web site, if the Entity maintains one;</li> <li>• Notification to major statewide media.</li> </ul> <p><b>Penalties.</b> Provides for one or more of civil penalties in the amount of \$500 per violation, up to a maximum of \$2,500 per day; equitable relief; or enjoinder from future violations.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the date of the breach, an estimate of the number of persons affected by the breach, if known, and the actual or anticipated date that persons were or will be notified of the breach.</li> <li>• AG and Department of Professional and Financial Regulation Office of Consumer Credit Regulation (DPFR) Enforcement. Enforced by AG and, or where applicable, the DPFR.</li> </ul>
<p><b>MARYLAND</b>  MD §§14-3501 – 14-3508  H.B. 208 (signed into law April 3, 2007)  Effective January 1, 2008</p>	<p><b>Application.</b> A sole proprietorship, partnership, corporation, association, or any other business entity, whether or not organized to operate at a profit, including a financial institution organized, chartered, licensed, or otherwise authorized under the laws of MD, any other state, the US, or any other country (collectively, "Entity") that owns or licenses computerized data that includes PI of an individual residing in MD.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on MD residents, whether or not organized or licensed under the laws of MD.</li> </ul>

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**Security Breach Definition.** The unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of the PI maintained by a business.

- A good faith acquisition of PI by an employee or agent of an Entity for the purposes of the business, provided that the PI is not used or subject to further unauthorized disclosure, does not constitute a security breach.

**Notification Obligations.** An Entity to which the statute applies, when it discovers or is notified of a breach of the security of a system, shall notify the individual of the breach.

- Notification not required if after a good faith, reasonable and prompt investigation the Entity determines that the PI of the individual was not and will not be misused as a result of the breach. If after the investigation is concluded, the Entity determines that notification is not required, the Entity shall maintain records that reflect its determination for 3 years after the determination is made.

Prior to giving the notification required under the statute, an Entity shall provide notice of a breach of the security of a system to the Office of the AG

**Third Party Data Notification.** An Entity that maintains computerized data that includes PI that the Entity does not own or license shall notify the owner or licensee of the PI of a breach of the security of a system if it likely that the breach has resulted or will result in the misuse of PI of an individual residing in MD.

- Notification required by a third party Entity shall be given as soon as reasonably practicable after the Entity discovers or is notified of the breach of the security of a system.
- A third party Entity shall share with the owner or licensee information relative to the breach.

**Timing of Notification.** The notification required shall be given as soon as reasonably practicable, consistent with measures necessary to determine the scope of the breach of the security of a system, identify the individuals affected, or restore the integrity of the system.

**Personal Information Definition.** An individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name or the data elements are not encrypted, redacted, or otherwise protected by another method that

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	<p>renders the information unreadable or unusable:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number;</li> <li>• Financial account number, including credit card number or debit card number, that in combination with any required security code, access code, or password, would permit access to an individual's financial account; or</li> <li>• An Individual Taxpayer Identification Number.</li> </ul> <p>PI does not include (i) publicly available information that is lawfully made available to the general public from federal, state, or local government records; (ii) information that an individual has consented to have publicly disseminated or listed; or (iii) information that is disseminated or listed in accordance with the federal Health Insurance Portability and Accountability Act.</p> <p><b>Notice Required.</b> Notice of breach may be provided by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice sent to the most recent address of the individual in the records of the business;</li> <li>• Telephonic notice, to the most recent telephone number of the individual in the records of the business;</li> <li>• Electronic mail to the most recent email address of the individual in the records of the business if the individual has expressly consented to receive email notice;</li> </ul> <p>Notification shall include:</p> <ul style="list-style-type: none"> <li>• To the extent possible, a description of the categories of information that were, or are reasonably believed to have been, acquired by an unauthorized person, including which of the elements of PI were, or are reasonably believed to have been acquired;</li> <li>• Contact information for the business making the notification, including the business' address, telephone number, and toll-free telephone number if one is maintained;</li> <li>• The toll-free telephone numbers and addresses for the major consumer reporting agencies;</li> </ul>
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	<ul style="list-style-type: none"> <li>The toll-free telephone numbers, addresses, and Web site addresses for (i) the Federal Trade Commissions; and (ii) the Office of the AG; and a statement that the individual can obtain information from these sources about steps the individual can take to avoid identity theft.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$100,000, or that the affected class of individuals to be notified exceeds 175,000, or the Entity does not have sufficient contact information to give notice. Substitute notice shall consist of all of the following:</p> <ul style="list-style-type: none"> <li>Email notice to an individual entitled to notification, if the business has an email address for the individual to be notified;</li> <li>Conspicuous posting of the notice on the Web site of the Entity, if the Entity maintains a Web site;</li> <li>Notification to statewide media.</li> </ul> <p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation or jeopardize homeland or national security. Notification shall be given as soon as reasonably practicable after the law enforcement agency determines that it will not impede a criminal investigation and will not jeopardize homeland or national security.</li> <li>Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the timing, distribution and content of those notices.</li> <li>Statute does not permit waiver by contract or any other means.</li> </ul>
<p><b>MASSACHUSETTS</b></p> <p><b>MASS. GEN. LAWS 93H § 1-6</b></p> <p>H.B. 4144 (signed into law August 3, 2007)</p>	<p><b>Application.</b> A natural person, corporation, association, partnership or other legal entity, or any agency, executive office, department, board, commission, bureau, division or authority of MA, or any of its branches, or any political subdivision thereof (collectively, "Entity") that owns or licenses data that includes PI about a resident of MA.</p> <ul style="list-style-type: none"> <li>The provisions governing maintenance of PI are applicable to</li> </ul>

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any Entity maintaining information on MD residents, whether or not organized or licensed under the laws of MD.

**Security Breach Definition.** An unauthorized acquisition or unauthorized use of unencrypted data or, encrypted electronic data and the confidential process or key that is capable of compromising the security, confidentiality, or integrity of PI, maintained by an Entity that creates a substantial risk of identity theft or fraud against a resident of MA.

- A good faith but unauthorized acquisition of PI by an Entity, or employee or agent thereof, for the lawful purpose of such Entity, is not a breach of security unless the PI is used in an unauthorized manner or subject to further unauthorized disclosure.

**Notification Obligation.** An Entity to which the statute applies shall provide notice, as soon as practicable and without unreasonable delay, when the Entity knows or has reason to know of a breach of security, or when the Entity knows or has reason to know that the PI of such resident was acquired or used by an unauthorized person or used for an unauthorized purpose, *to the AG, the director of consumer affairs and business regulation and to such resident.*

**Notification Obligation of an Agency Within the Executive Department.** If an agency is within the executive department, it shall provide written notification of the nature and circumstances of the breach or unauthorized acquisition or use of the information to the technology division and the division of public records as soon as practicable and without unreasonable delay following discovery of the breach of security or unauthorized acquisition or use, and shall comply with all policies and procedures adopted by that division pertaining to the reporting and investigation of such an incident.

**Third Party Data Notification.** An Entity that maintains or stores, but does not own or license data that includes PI about a resident of MA, shall provide notice, as soon as practicable and without unreasonable delay, when such Entity (i) knows or has reason to know of a breach of security; or (ii) when the Entity knows or has reason to know that the PI of such resident was acquired or used by an unauthorized person or used for an unauthorized purpose, to the owner or licensor. Such Entity shall cooperate with the owner or licensor of such PI. Cooperation shall include, but not be limited to, (i) informing the owner or licensor of the breach of security or unauthorized acquisition or use, (ii) the date or approximate date of such incident and the nature thereof, and (iii) any steps the Entity has taken or plans to take relating to the incident, except that such cooperation shall not

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be deemed to require the disclosure of confidential business information or trade secrets, or to provide notice to a resident that may not have been affected by the breach of security or unauthorized acquisition or use.

**Timing of Notification.** The notification shall be given as soon as practicable and without unreasonable delay following discovery of the breach.

**Personal Information Definition.** A resident's first name and last name or first initial and last name in combination with any one or more of the following data elements that relates to such resident:

- SSN;
- Driver's license or MA ID card number;
- Financial account number, or credit card number, with or without any required security code, access code, personal ID number or password, that would permit access to a resident's financial account.

PI does not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Electronic notice, if notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

The notice to be provided to the AG, director of consumer affairs, and consumer reporting agencies or state agencies, if any, shall include, but not be limited to (i) the nature of the breach of security or unauthorized acquisition or use, (ii) the number of residents of MA affected by such incident at the time of notification, and (iii) any steps the Entity has taken or plans to take relating to the incident.

Notice to be provided to the resident shall include, but not be limited to the following information: (i) the consumer's rights to obtain a policy report; (ii) how to request a security freeze and the necessary information to be provided when requesting the security freeze; (iii) any fees required to be paid to any of the consumer reporting agencies.

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The notification shall not include the nature of the breach or unauthorized acquisition or use of the number of residents of MA affected by said breach or unauthorized access or use.

**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing written notice will exceed \$250,000, or that the affected class of MA residents to be notified exceeds 500,000 residents, or the Entity does not have sufficient contact information to provide notice. Substitute notice shall consist of all of the following:

- Email notice, if the Entity has email addresses for the members of the affected class of MA residents;
- Clear and conspicuous posting of the notice on the home page of the Entity if the Entity maintains a Web site;
- Publication in or broadcast through media or medium that provides notice throughout MA.

**Exception: Compliance with Other Laws.**

- Primary Regulator. Notification pursuant to laws, rules, regulations, guidances or guidelines established by an Entity's primary or functional state or federal regulator is sufficient for compliance.

**Other Key Provisions:**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and has notified the AG, in writing, thereof and informs the Entity of such determination. Notice required by the statute must be made without unreasonable delay and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation. The Entity shall cooperate with law enforcement in its investigation of any breach of security or unauthorized acquisition or use, which shall include the sharing of information relevant to the incident; provided however, that such disclosure shall not require the disclosure of confidential business information or trade secrets.
- AG Enforcement available.
- Upon receipt of notice, the director of consumer affairs and business regulation shall identify any relevant consumer

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	<p>reporting agency or state agency and forward the names of the identified consumer reporting agencies and state agencies to the notifying Entity. <b><i>The Entity shall, as soon as practicable and without unreasonable delay, also provide notice to the consumer reporting agencies and state agencies identified by the director of consumer affairs and business regulation.</i></b></p>
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<p><b>MICHIGAN</b></p> <p>MICH. COMP. LAWS § 445.72</p> <p>S.B. 309 (signed into law December 30, 2006, Pub. Act. 566)</p> <p>Effective July 2, 2007</p>	<p><b>Application.</b> Any individual, partnership, corporation, limited liability company, association, or other legal entity, or any department, board, commission, office, agency, authority, or other unit of state government of MI (collectively, "Entity") that owns or licenses data including PI of a MI resident.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI are applicable to any Entity maintaining information on MI residents, whether or not organized or licensed under the laws of MI.</li> </ul> <p><b>Security Breach Definition.</b> The unauthorized access and acquisition of data that compromises the security or confidentiality of PI maintained by an Entity as part of a database of PI regarding multiple individuals.</p> <ul style="list-style-type: none"> <li>• A good faith but unauthorized acquisition of PI by an employee or other individual, where the access was related to the activities of the Entity, is not a breach of security unless the PI is misused or disclosed to an unauthorized person. In making this determination an Entity shall act with the care of an ordinarily prudent Entity in like a position would exercise under similar circumstances.</li> </ul> <p><b>Notification Obligation.</b> An Entity to which the statute applies shall provide notice of the breach to each resident of MI if (i) the resident's unencrypted and unredacted PI was accessed and acquired by an unauthorized person; or (ii) the resident's PI was accessed and acquired in encrypted form by a person with unauthorized access to the encryption key.</p> <p>Notification is not required if the Entity determines that the security breach has not or is not likely to cause substantial loss or injury to, or result in identity theft with respect to, one or more residents of MI.</p> <p><b>Third Party Data Notification.</b> An Entity that maintains a database that includes data that the Entity does not own or license that discovers a breach of the security of the database shall provide a notice to the owner or licensor of the information of the security breach; unless the Entity determines that the security breach has not or is not likely to cause substantial loss or injury to, or result in identity theft with respect to one or more residents of MI.</p> <p><b>Timing of Notification.</b> The notification shall be given without unreasonable delay following discovery of the breach, consistent with measures necessary to determine the scope of the breach of the security of a system or restore the integrity of the system.</p>
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**Personal Information Definition.** The first name or first initial and last name linked to one or more of the following data elements of a resident of MI:

- SSN;
- Driver's license number or MI ID card number;
- Demand deposit or other financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to any of the resident's financial accounts.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice sent to the recipient at the recipient's postal address in the records of the Entity;
- Telephonic notice given by an individual who represents the Entity if (i) the notice is not given in whole or in part by use of a recorded message; (ii) the recipient has expressly consented to receive notice by telephone, or if the recipient has not expressly consented to receive notice by telephone, the Entity also provides notice pursuant to the above methods if the notice by telephone does not result in a live conversation between the individual representing the Entity and the recipient within 3 business days after the initial attempt to provide telephonic notice.
- Written notice sent electronically to the recipient if (i) the recipient has expressly consented to receive electronic notice, (ii) the Entity has an existing business relationship with the recipient that includes periodic email communications and based on those communications the Entity reasonably believes that it has the recipient's current email address; or (iii) the Entity conducts its business primarily through internet account transactions or on the internet.

A notice under the statute shall:

- Be written in a clear and conspicuous manner, and shall clearly communicate the content required;
- Describe the security breach in general terms;
- Describe the type of PI that is the subject of the unauthorized

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	<p>access or use;</p> <ul style="list-style-type: none"> <li>• If applicable, generally describe what the agency or person providing the notice has done to protect data from further security breaches;</li> <li>• Include a telephone number where a notice recipient may obtain assistance or additional information;</li> <li>• Remind notice recipients of the need to remain vigilant for incidents of fraud and identity theft.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$250,000 or that the Entity has to provide notice to more than 500,000 residents of MI. Substitute notice shall consist of all of the following:</p> <ul style="list-style-type: none"> <li>• Email notice if the Entity has email addresses for any of the residents of MI who are entitled to receive notice;</li> <li>• Conspicuous posting on the Entity's Web site, if the Entity maintains a Web site</li> <li>• Notification to major statewide media, which notice shall include a telephone number or Web site address that a person may use to obtain additional assistance and information.</li> </ul> <p>Provides that a public utility that sends monthly billing or account statements to its customers may provide notice of a security breach to its customers as provided under the statute <u>or</u> by providing all of the following:</p> <ul style="list-style-type: none"> <li>• As applicable, email notice in accordance with the statute;</li> <li>• Notice to the media reasonably calculated to inform the utility's customers of the breach;</li> <li>• Conspicuous posting of notice of the security breach on the Web site of the utility; and</li> <li>• Written notice sent in conjunction with the billing or account statement sent to the customer at his or her postal address in the utility's records.</li> </ul> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Federal Interagency Guidance. A financial institution that is subject to and in compliance with the Federal Interagency</li> </ul>
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Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said interagency guidance, shall be deemed to be in compliance.

- **HIPAA Covered Entities.** A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.

**Penalties.** Provides for criminal penalties for notice of a security breach that has not occurred, where such notice is given with the intent to defraud. The offense is a misdemeanor, punishable by imprisonment for not more than 30 days or a fine of not more than \$250 per violation (or both). Entities who fail to provide notice may be ordered to pay a civil fine of not more than \$250 for each failure to provide notice, capped at \$750,000 per security breach. These penalties do not affect the availability of civil remedies under state or federal law.

**Other Key Provisions:**

- **Delay for Law Enforcement.** Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation or jeopardize homeland or national security. Notification shall be given as soon as reasonably practicable after the law enforcement agency determines that it will not impede a criminal investigation and will not jeopardize homeland or national security.
- **Notification to Consumer Reporting Agencies.** If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the number of notices that the Entity provided to state residents and the timing of those notices.
- **AG Enforcement available.**

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	<ul style="list-style-type: none"> <li>Provides that Entities may deliver notice pursuant to an agreement with another Entity, if the agreement does not conflict with the Michigan law.</li> </ul>
<p><b>MINNESOTA</b>  MINN. STAT. § 325E.61  H.F. 2121 (signed into law June 2, 2005, Chapter 167)  Effective January 1, 2006</p>	<p><b>Application.</b> Any person or business (collectively, "Entity") that conducts business in MN, and that owns or licenses data that includes PI.</p> <ul style="list-style-type: none"> <li>The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on MN residents, whether or not the Entity conducts business in MN.</li> </ul> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security system, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of MN whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> Any Entity that maintains data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach, identify the individuals affected, and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any one or more of the following data elements, when the data element is not secured by encryption or another method of technology that makes electronic data unreadable or unusable, or was secured and the encryption key, password, or other means necessary for reading or using the data was</p>

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also acquired:

- SSN;
- Driver's license number or MN ID card number;
- Account number or credit 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.

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice to the most recent available address the Entity has in its records;
- Electronic notice, if the Entity's primary method of communication with the individual is by electronic means, or if the notice provided is consistent with the provisions regarding electronic records and signature in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act) (Note that this does not necessarily require compliance with the E-SIGN Act).

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and whose procedures are otherwise consistent with the timing requirements of the statute, shall be deemed to be in compliance with the notification requirements of the statute, if the Entity notifies subject persons in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- HIPAA Covered Entities. A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.

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	<p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed to a date certain if a law enforcement agency determines that the notice will impede a criminal investigation.</li> <li>• Notification to Consumer Reporting Agencies. If more than 1,000 individuals are affected by a breach, many states require the Entity to notify consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1618a(p), of the number of notices that the Entity provided to state residents and the timing of those notices.</li> <li>• AG enforcement available.</li> <li>• Statute does not allow waiver by contract or any other means.</li> <li>• Does not apply to any "financial institution," as defined by 15 U.S.C. § 6809(3).</li> </ul>
<p><b>MONTANA</b>  MONT. CODE ANN. § 30-14-1704   H.B. 732 (signed into law April 28, 2005, Chapter 518)   Effective March 1, 2006</p>	<p><b>Application.</b> Any person or business (collectively, "Entity") that conducts business in MT and that owns or licenses computerized data that includes PI.</p> <ul style="list-style-type: none"> <li>• The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on MT residents, whether or not the Entity conducts business in MT.</li> </ul> <p><b>Security Breach Definition.</b> Any unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of PI maintained by the Entity and causes or is reasonably believed to cause loss or injury to a MT resident.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purpose of the Entity is not a breach of the security of the data system, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the data system following discovery or notification of the breach to any resident of MT whose unencrypted PI was or is reasonably believed to have been acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> Any Entity that maintains</p>

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computerized data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the data system immediately following discovery if the PI was or is reasonably believed to have been acquired by an unauthorized person.

**Timing of Notification.** The disclosure must be made without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

**Personal Information Definition.** 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:

- SSN;
- Driver's license number, MT ID card number, or tribal ID card number;
- Account number or credit 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;

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

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice;
- Telephonic notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; [15 United States Code § 7001](#) (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of email notice when the Entity has an email address for the subject

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	<p>persons; <u>and</u> either:</p> <ul style="list-style-type: none"> <li>• Conspicuous posting of the notice on the Web site page of the Entity if the Entity maintains one;</li> <li>• Notification to applicable local or statewide media.</li> </ul> <p><b>Exception: Own Notification Policy.</b> An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and that does not unreasonably delay notice is considered to be in compliance with the notification requirements of the statute if the Entity notifies subject persons in accordance with its policies in the event of a breach of security of the data system.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and requests a delay in notification. The notification required by the statute must be made after the law enforcement agency determines that it will not compromise the investigation.</li> <li>• If a business notifies an individual of a breach and suggests, indicates or implies that the individual may obtain a credit report, the business must coordinate with the credit reporting agency as to the timing, content and distribution of notice to the individual (but this may not unreasonably delay disclosure of the breach).</li> </ul>
<p><b>NEBRASKA</b>  L.B. 876 (signed into law April 10, 2006)  Neb. Rev Stat. §§ 87-801 to 87-807.  Effective July 14, 2006</p>	<p><b>Application.</b> An individual, government agency, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, organization, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal entity, whether for profit or not for profit (collectively, "Entity"), that conducts business in NE and that owns or licenses computerized data that includes PI about a resident of NE. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining information on NE residents, whether or not the Entity conducts business in NE.</p> <p><b>Security Breach Definition.</b> An unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of PI maintained by an Entity.</p>

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- Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system if the PI is not used or subject to further unauthorized disclosure.
- Acquisition of PI pursuant to a search warrant, subpoena, or other court order or pursuant to a subpoena or order of a state agency is not a breach of the security of the system.

**Notification Obligation.** Any Entity to which the statute applies shall, when it becomes aware of a breach of the security of the system and determines that the use of information about a NE resident for an unauthorized purpose has occurred or is reasonably likely to occur, give notice to the affected NE resident.

- Notification not required if after a good faith, reasonable and prompt investigation the Entity determines that it is unlikely that PI has been or will be used for an unauthorized purpose.

**Third Party Data Notification.** An Entity that maintains computerized data that includes PI that the Entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach of the security of the system when it becomes aware of a breach if use of PI about a NE resident for an unauthorized purpose occurred or is reasonably likely to occur. Cooperation includes, but is not limited to, sharing with the owner or licensee information relevant to the breach, not including information proprietary to the Entity.

**Timing of Notification.** Notice shall be made as soon as possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

**Personal Information Definition.** A NE resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident if either the name or the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable:

- SSN;
- Driver's license number or state ID card number;
- Account number or credit or debit card number, in combination with any required security code, access code, or

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	<p>password (e.g., a PIN) that would permit access to a resident's financial account;</p> <ul style="list-style-type: none"> <li>• Unique electronic ID number or routing code, in combination with any required security code, access code, or password; or</li> <li>• Unique biometric data, such as a fingerprint, voice print, or retina or iris image, or other unique physical representation.</li> </ul> <p>PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records</p> <p><b>Notice Required.</b> Notice of breaches may be provided by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice;</li> <li>• Telephonic notice; or</li> <li>• Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity required to provide notice demonstrates that the cost of providing notice will exceed \$75,000, that the affected class of NE residents to be notified exceeds 100,000 residents, or that the Entity does not have sufficient contact information to provide notice. Substitute notice requires <u>all</u> of the following:</p> <ul style="list-style-type: none"> <li>• Email notice if the Entity has email addresses for the members of the affected class of NE residents;</li> <li>• Conspicuous posting of the notice on the Web site of the Entity if it maintains a Web site; and</li> <li>• Notice to major statewide media.</li> </ul> <p><b>Substitute Notice Exception:</b> If the Entity required to provide notice has ten employees or fewer and demonstrates that the cost of providing notice will exceed \$10,000. Substitute notice requires <u>all</u> of the following:</p> <ul style="list-style-type: none"> <li>• Email notice if the Entity has email addresses for the members of the affected class of NE residents;</li> </ul>
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- Notification by a paid advertisement in a local newspaper that is distributed in the geographic area in which the Entity is located, which advertisement shall be of sufficient size that it covers at least one-quarter of a page in the newspaper and shall be published in the newspaper at least once a week for three consecutive weeks;
- Conspicuous posting of the notice on the Web site of the Entity if it maintains a Web site; and
- Notification to major media outlets in the geographic area in which the Entity is located.

**Exception: Own Notification Policy.** An Entity that maintains its own notice procedures which are part of an information security policy for the treatment of PI and which are otherwise consistent with the timing requirements of the statute, is deemed to be in compliance with the notice requirements of the statute if the Entity notifies affected NE residents in accordance with its notice procedures in the event of a breach of the security of the system.

**Exception: Compliance with Other Laws.**

- Primary Regulator. An Entity that is regulated by state or federal law and that maintains procedures for a breach of the security of the system pursuant to the laws, rules, regulations, guidances, or guidelines established by its primary or functional state or federal regulator is deemed to be in compliance with the notice requirements of the statute if the Entity notifies affected NE residents in accordance with the maintained procedures in the event of a breach of the security of the system.

**Other key provisions.**

- Delay for Law Enforcement. Notice may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation. Notice shall be made in good faith, without unreasonable delay, and as soon as possible after the law enforcement agency determines that notification will no longer impede the investigation.
- AG Enforcement. AG may issue subpoenas and seek and recover direct economic damages for each affected NE resident injured by a violation of the statute.

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	<ul style="list-style-type: none"> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>NEVADA</b> S.B. 347 (signed into law June 17, 2005, Chapter 485) NEV. REV. STAT. § 603A.220</p> <p>Effective October 1, 2005: Provisions regarding (i) forgery laboratories; (ii) crimes against older and vulnerable persons; (iii) requirements for state actors; and (iv) credit card issuer requirements</p> <p>Effective January 1, 2006: (i) credit card issuer requirements; (ii) data destruction requirements; (iii) "reasonable protections" requirements; (iv) security breach notification provisions</p> <p>Effective January 1, 2008: Encryption provisions</p>	<p><b>Application.</b> Any governmental agency, institution of higher education, corporation, financial institution or retail operator, or any other type of business entity or association (collectively, "Entity"), that owns or licenses computerized data that includes PI.</p> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of PI maintained by Entity.</p> <ul style="list-style-type: none"> <li>• Security breach does not include the good faith acquisition of PI by an employee or agent of the Entity for a legitimate purpose of the Entity, so long as the PI is not used for a purpose unrelated to the Entity or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system data following discovery or notification of the breach to any resident of NV whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> If an Entity maintains computerized data that includes PI that the Entity does not own, the Entity must notify the owner or licensee of the information of any breach of the security of the system data immediately following discovery if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system data.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any one or more of the following data elements, when the name <u>and</u> data elements are not encrypted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or ID card number;</li> <li>• Account number, credit or debit card number, in combination with any required security code, access code, or password</li> </ul>

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(e.g., a PIN) that would permit access to an individual's financial account;

PI does not include the last four digits of a SSN or publicly available information that is lawfully made available to the general public.

**Notice Required.** Notice of breaches may be provided by one of the following methods:

- Written notice.
- Electronic notice, if the notice provided is consistent with the provisions of the Electronic Signatures in Global and National Commerce Act (E-SIGN Act). P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001.

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email addresses for the subject persons.
- Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one.
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification policies and procedures as part of an information security policy for the treatment of PI that is otherwise consistent with the timing requirements of the statute shall be deemed in compliance with the notification requirements of the statute if it notifies subject persons in accordance with its policies and procedures in the event of a security breach.

**Exception: Compliance with Other Laws.**

- GLBA. An Entity that is subject to and complies with the privacy and security provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801, et seq., shall be deemed to be in compliance with the notification requirements.

**Other Key Provisions:**

- Delay for Law Enforcement. The notification required by the

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	<p>statute may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification must be made after the law enforcement agency determines that the notification will not compromise the investigation.</p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. If an Entity determines that notification is required to be given to more than 1,000 persons at any one time, the Entity shall also notify, without unreasonable delay, any consumer reporting agency, as that term is defined in 15 U.S.C. § 1681a(p), that compiles and maintains files on consumers on a nationwide basis, of the time the notification is distributed and the content of the notification.</li> <li>• AG Enforcement. If the AG or a district attorney of any county has reason to believe that any person is violating, proposes to violate or has violated the provisions of the Statute, he may bring an action against that person to obtain a temporary or permanent injunction against the violation.</li> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>NEW HAMPSHIRE</b>  H.B. 1660 (signed into law June 2, 2006)  N.H. REV. STAT. ANN. §§ 359-C:19-21  Effective January 1, 2007</p>	<p><b>Application.</b> Any individual, corporation, trust, partnership, incorporated or unincorporated association, limited liability company, or other form of entity, or any agency, authority, board, court, department, division, commission, institution, bureau, or other state governmental entity, or any political subdivision of the state (collectively, "Entity") doing business in NH that owns or licenses computerized data that includes PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity does business in NH.</p> <p><b>Security Breach Definition.</b> An unauthorized acquisition of computerized data that compromises the security or confidentiality of PI maintained by an Entity doing business in the state.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity's business shall not be considered a security breach, provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies, when it becomes aware of a security breach and determines that misuse of the information has occurred or is reasonably likely to occur,</p>

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or if a determination cannot be made, shall notify the affected individuals.

- Notification not required if it is determined that misuse of the information has not occurred and is not reasonably likely to occur.
- An Entity engaged in trade or commerce that must notify any person shall also notify the regulator which has primary regulatory authority over such trade or commerce. All other Entities shall notify the NH AG.

**Third Party Data Notification.** If an Entity maintains computerized data that includes PI that the Entity does not own, the Entity shall notify and cooperate with the owner or licensee of the information of any breach of the security of the data immediately following discovery if the PI was acquired by an unauthorized person. Cooperation includes sharing with the owner or licensee information relevant to the breach; except that such cooperation shall not be deemed to require the disclosure of confidential or business information or trade secrets.

**Timing of Notification.** The Entity shall notify the affected individuals as soon as possible.

**Personal Information Definition.** An individual's first name or 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:

- SSN;
- Driver's license number or other government ID number;
- Account number, credit or debit card number, in combination with any required security code, access code, or password (e.g., a PIN) that would permit access to an individual's financial account;

Data shall not be considered to be encrypted if it is acquired in combination with any required key, security code, access code, or password that would permit access to the encrypted data.

PI shall not include information that is lawfully made available to the general public from federal, state, or local government records.

**Notice Required.** Notice shall include at a minimum:

- A description of the incident in general terms.

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- The approximate date of the breach.
- The type of PI obtained as a result of the security breach.
- The telephonic contact information of the Entity.

Notice shall be provided by one of the following methods:

- Written notice.
- Telephonic notice, provided that a log of each such notification is kept by the person or business who notifies affected persons.
- Electronic notice, if the Entity's primary means of communication with affected individuals is by electronic means.
- Notice pursuant to the Entity's internal notification procedures maintained as part of an information security policy for the treatment of PI.

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$5,000, that the affected class of subject individuals to be notified exceeds 1,000, or the Entity does not have sufficient contact information or consent to provide written, electronic or telephonic notice. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the affected individuals.
- Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one.
- Notification to major statewide media.

**Exception: Compliance with Other Laws**

- Primary Regulator. An Entity engaged in trade or commerce which maintains procedures for security breach notification pursuant to the laws, rules, regulations, guidances, or guidelines issued by a state or federal regulator shall be deemed to be in compliance with this subdivision if it acts in accordance with such laws, rules, regulations, guidances, or guidelines.

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	<p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notification may be delayed if a law enforcement agency or national or homeland security agency determines that the notification will impede a criminal investigation or jeopardize national or homeland security.</li> <li>• Notification to Consumer Reporting Agencies. If an Entity is required to notify more than 1,000 consumers, the Entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis of the anticipated date of the notification to the consumers, the approximate number of consumers who will be notified, and the content of the notice. This obligation does not apply to entities subject to Title V of the GLBA.</li> <li>• AG Enforcement. The NH AG's office shall enforce the provisions of this statute.</li> </ul>
<p><b>NEW JERSEY</b></p> <p>A. 4001 (signed into law Sept. 22, 2005)</p> <p>N.J. STAT. ANN. § 56:8-163</p> <p>Effective January 1, 2006 (all provisions except those governing police reports, which are effective as of Sept. 22, 2005)</p>	<p><b>Application.</b> NJ, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in NJ, any sole proprietorship, partnership, corporation, association, or other entity, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the law of NJ, any other state, the United States, or of any other country, or the parent or the subsidiary of a financial institution, that conducts business in NJ (collectively, "Entity") that compiles or maintains computerized records that include PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity conducts business in NJ.</p> <p><b>Security Breach Definition.</b> Unauthorized <u>access</u> to electronic files, media or data containing PI that compromises the security, confidentiality or integrity of PI when access to the PI has not been secured by encryption or by any other method or technology that renders the PI unreadable or unusable.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for a legitimate business purpose is not a breach of security, provided that the PI is not used for a purpose unrelated to the business or subject to further unauthorized disclosure.</li> </ul>

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**Notification Obligation.** Any Entity to which the statute applies shall disclose any breach of security of those computerized records following discovery or notification of the breach to any customer who is a resident of NJ whose PI was, or is reasonably believed to have been, accessed by an unauthorized person.

- Disclosure of a breach of security to a customer shall not be required if the Entity establishes that misuse of the information is not reasonably possible. Any determination shall be documented in writing and retained for five years.
- Any Entity required under this section to disclose a breach of security of a customer's PI shall, in advance of the disclosure to the customer, report the breach of security and any information pertaining to the breach to the Division of State Police in the Department of Law and Public Safety for investigation or handling, which may include dissemination or referral to other appropriate law enforcement entities.

**Third Party Data Notification.** An Entity that compiles or maintains computerized records that include PI on behalf of another Entity shall notify that Entity of any breach of security of the computerized records immediately following discovery, if the PI was, or is reasonably believed to have been, accessed by an unauthorized person.

**Timing of Notification.** The disclosure to a customer shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

**Personal Information Definition.** An individual's first name or first initial and last name linked with any one or more of the following data elements:

- SSN;
- Driver's license number or State ID card number;
- Account number or credit or debit card number, in combination with any required security code, access code, or password (e.g., a PIN) that would permit access to an individual's financial account.

Dissociated data that, if linked, would constitute PI is PI if the means to link the dissociated data were accessed in connection with access to the dissociated data. PI shall not include publicly available information that is lawfully made available to the general public from federal, state

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or local government records, or widely distributed media.

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice.
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 101 of the federal "Electronic Signatures in Global and National Commerce Act" (E-SIGN Act). P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001.

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject individuals to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email addresses.
- Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one.
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI, and is otherwise consistent with the requirements of the statute, shall be deemed in compliance with the notification requirements of the statute if it notifies subject customers in accordance with its policies in the event of a breach of security of the system.

**Other Key Provisions:**

- Delay for Law Enforcement. The notification required by this section shall be delayed if a law enforcement agency determines that the notification will impede a criminal or civil investigation and that agency has made a request that the notification be delayed.
- Notification to Consumer Reporting Agencies. If an Entity discovers circumstances requiring notification pursuant to this section of more than 1,000 persons at one time, the Entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile or maintain files on consumers on a nationwide basis of the timing, distribution and content of

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	the notices.
<p><b>NEW YORK</b>  A.B. 4254 (signed into law August 10, 2005)  N.Y. GEN. BUS. LAW § 899-aa  Effective December 8, 2005</p>	<p><b>Application.</b> Any person or business (collectively, "Entity") which conducts business in New York state and which owns or licenses computerized data which includes <i>private information</i>. The provisions governing maintenance of <i>private information</i> that the Entity does not own appear applicable to any Entity maintaining private information, whether or not the Entity conducts business in NY.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition or acquisition without valid authorization of computerized data that compromises the security, confidentiality, or integrity of <i>private information</i> maintained by a business. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, Entities may consider the following factors, among others:</p> <ul style="list-style-type: none"> <li>• Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or</li> <li>• Indications that the information has been downloaded or copied; or</li> <li>• Indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.</li> </ul> <p>Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security of the system, provided that the <i>private information</i> is not used or subject to unauthorized disclosure.</p> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of NY whose <i>private information</i> was, or is reasonably believed to have been, acquired by a person without valid authorization.</p> <ul style="list-style-type: none"> <li>• If any NY residents are to be notified, the Entity shall notify the state AG, the consumer protection board, and the state Office of Cyber Security and Critical Infrastructure Coordination as to the timing, content and distribution of the notices and approximate number of affected persons.</li> </ul>

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**Third Party Data Notification.** Any Entity which maintains computerized data which includes private information which such Entity does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.

**Timing of Notification.** The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the system.

**Private Information Definition.** Information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person ("PI") in combination with any one or more of the following data elements, when either the PI or the data element is not encrypted, or encrypted with an encryption key that has also been acquired:

- SSN;
- Driver's license number or non-driver ID card number;
- Account number, credit or debit card number, in combination with any required security code, access code, or password (e.g., a PIN) that would permit access to an individual's financial account.

**Notice Required.** Notice shall include:

- Contact information for the Entity making the notification;
- A description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of PI and private information were, or are reasonably believed to have been, so acquired.

The notice required shall be directly provided to the affected persons by one of the following methods:

- Written notice.
- Telephonic notice, provided that a log of each such notification is kept by the Entity who notifies affected persons.

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	<ul style="list-style-type: none"> <li>• Electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the Entity who notifies affected persons in such form; provided further, however, that in no case shall any Entity require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates to the NY AG that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of <u>all</u> of the following:</p> <ul style="list-style-type: none"> <li>• Email notice when the Entity has an email addresses for the subject persons.</li> <li>• Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one.</li> <li>• Notification to major statewide media.</li> </ul> <p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The required notification shall be made after such law enforcement agency determines that such notification does not compromise such investigation.</li> <li>• Notification to Consumer Reporting Agencies. If more than 5000 NY residents are to be notified at one time, the Entity shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons.</li> <li>• AG Enforcement. The AG may bring action to enjoin and restrain the continuation of such violation.</li> </ul>
<p><b>NORTH CAROLINA</b></p> <p>S.B. 1048 (signed into law September 21, 2005)</p>	<p><b>Application.</b> Any sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any</p>

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<p>Effective July 1, 2007: Provisions addressing collection, use and disclosure of SSNs by businesses</p> <p>Effective October 1, 2006: Provisions addressing collection, use and disclosure of SSNs by state agencies</p> <p>N.C. GEN. STAT. § 75-65</p> <p>Effective December 1, 2005: All other provisions (including those pertaining to security breaches)</p>	<p>other country, or the parent or the subsidiary of any such financial institution, but not including any government or governmental subdivision or agency (collectively, "Entity") that owns or licenses PI of residents of NC or any Entity that conducts business in NC that owns or licenses PI in any form (<b>whether computerized, paper, or otherwise</b>).</p> <p><b>Security Breach Definition.</b> An incident of unauthorized access to and acquisition of unencrypted and unredacted records or data containing PI where illegal use of the PI has occurred or is reasonably likely to occur or that creates a material risk of harm to a consumer. Any incident of unauthorized access to and acquisition of encrypted records or data containing PI along with the confidential process or key shall constitute a security breach.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for a legitimate purpose is not a security breach, provided that the PI is not used for a purpose other than a lawful purpose of the Entity and is not subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall provide notice to the affected person that there has been a security breach following discovery or notification of the breach.</p> <ul style="list-style-type: none"> <li>• In the event an Entity provides notice to more than 1,000 persons at one time pursuant to the statute, the Entity shall notify, without unreasonable delay, the Consumer Protection Division of the AG's Office</li> </ul> <p><b>Third Party Data Notification.</b> Any business that:</p> <ul style="list-style-type: none"> <li>• Possesses records containing PI of residents of North Carolina that the business does not own or license, or</li> <li>• Conducts business in North Carolina that possesses records containing PI that the business does not own or license</li> </ul> <p>Shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach.</p> <p><b>Timing of Notification.</b> The disclosure shall be made without unreasonable delay, consistent with any measures necessary to determine sufficient contact information, determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.</p> <p><b>Personal Information Definition.</b> A person's first name or first initial</p>
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and last name in combination with any of the following identifying information:

- SSN;
- Drivers license, State ID card or passport numbers;
- Checking account numbers;
- Savings account numbers;
- Credit card numbers;
- Debit card numbers;
- PIN;
- Digital signatures;
- Any other numbers or information that can be used to access a person's financial resources;
- Biometric data; or
- Fingerprints.

Additionally, if (but only if) any of the following information "would permit access to a person's financial account or resources," it is considered PI when taken in conjunction with a person's first name, or first initial and last name:

- Electronic ID numbers;
- Email names or addresses;
- Internet account numbers;
- Internet ID names;
- Parent's legal surname prior to marriage; or
- Passwords.

PI does not include publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed, including name, address, and telephone number, and does not include information made lawfully available to

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the general public from federal, state, or local government records

**Notice Required.** Notice of breaches must be clear, conspicuous, and shall include a description of the following:

- The incident in general terms.
- The type of PI that was subject to the unauthorized access and acquisition.
- The general acts of the business to protect the PI from further unauthorized access.
- A telephone number that the person may call for further information and assistance, if one exists.
- Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

It may be provided by one of the following methods:

- Written notice.
- Telephonic notice provided that contact is made directly with the affected persons.
- Electronic notice, for those persons for whom it has a valid e-mail address and who have agreed to receive communications electronically if the notice provided is consistent with the provisions regarding electronic records and signatures for notices legally required to be in writing set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the business demonstrates that the cost of providing notice would exceed \$250,000 or that the affected class of subject persons to be notified exceeds 500,000, or if the business does not have sufficient contact information or consent to provide notice as required under the statute, for only those affected persons without sufficient contact information or consent, or if the business is unable to identify particular affected persons, for only those unidentifiable affected persons. Substitute notice shall consist of all the following:

- Email notice when the Entity has an email address for the subject persons.
- Conspicuous posting of the notice on the Web site of the

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	<p>business, if one is maintained.</p> <ul style="list-style-type: none"> <li>• Notification to major statewide media.</li> </ul> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Federal Interagency Guidance. A financial institution that is subject to and in compliance with the Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, and any revisions, additions, or substitutions relating to said Interagency Guidance, shall be deemed to be in compliance.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notice required by this section shall be delayed if a law enforcement agency informs the business that notification may impede a criminal investigation or jeopardize national or homeland security, provided that such request is made in writing or the business documents such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. The notice required shall be provided without unreasonable delay after the law enforcement agency communication to the business its determination that notice will no longer impede the investigation or jeopardize national or homeland security.</li> <li>• Notification to Consumer Reporting Agencies. In the event an Entity provides notice to more than 1,000 persons at one time pursuant to this section, the Entity shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notice.</li> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>NORTH DAKOTA</b> S.B. 2251 (signed into law April 22, 2005)</p>	<p><b>Application.</b> Any person ("Entity") that conducts business in ND and that owns or licenses computerized data that includes PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the</p>

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<p>N.D. CENT. CODE §§ 51-30-01 <i>et seq.</i></p> <p>Effective June 1, 2005</p>	<p>Entity conducts business in ND.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of computerized data when access to PI has not been secured by encryption or by any other method or technology that renders the electronic files, media, or data bases unreadable or unusable.</p> <ul style="list-style-type: none"> <li>• Good-faith acquisition of PI by an employee or agent of the Entity is not a breach of the security of the system, if the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of ND whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> Any person that maintains computerized data that includes PI that the person does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following the discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and to restore the integrity of the data system.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any of the following data elements, when the name and the data elements are not encrypted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• The operator's license number assigned to an individual by the department of transportation;</li> <li>• A non-driver color photo ID card number assigned to the individual by the department of transportation;</li> <li>• The individual's financial institution 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 accounts;</li> <li>• The individual's date of birth;</li> </ul>
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- The maiden name of the individual's mother;
- An ID number assigned to the individual by the individual's employer;
- The individual's digitized or other electronic signature.

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

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice.
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the person demonstrates that the cost of providing notice would exceed \$250,000, that the affected class of subject individuals to be notified exceeds 500,000, or the person does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the person has an email address for the subject persons.
- Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one.
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of this chapter is deemed to be in compliance with the notification requirements of this chapter if the Entity notifies subject individuals in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- Federal Interagency Guidance. A financial institution, trust company, or credit union that is subject to, examined for, and in compliance with the Federal Interagency Guidance on

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	<p>Response Programs for Unauthorized Access to Customer Information and Customer Notice is deemed to be in compliance with this chapter.</p> <p><b>Other Key Provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notification required by this chapter may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The required notification must be made after the law enforcement agency determines that the notification will not compromise the investigation.</li> <li>• AG Enforcement available.</li> </ul>
<p><b>OHIO</b></p> <p>H.B. 104 (signed into law Nov. 17, 2005), amended by S.B. 126 (signed into law Dec. 29, 2006).</p> <p>OHIO REV. CODE ANN. § 1349.19</p> <p>Effective February 17, 2006 (amendment to exclude “covered entities” under HIPAA effective March 30, 2007).</p>	<p><b>Application.</b> Any individual, corporation, business trust, estate, trust, partnership, or association (collectively, "Entity") that conducts business in OH and owns or licenses computerized data that includes PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity conducts business in OH.</p> <p><b>Security Breach Definition.</b> Unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of PI owned or licensed by an Entity and that causes, reasonably is believed to have caused, or reasonably is believed will cause a material risk of identity theft or other fraud to the person or property of Ohio.</p> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system, following its discovery or notification of the breach of the security of the system, to any individual whose principal mailing address as reflected in the records of the Entity is in OH and whose PI was, or reasonably is believed to have been, accessed and acquired by an unauthorized person if the access and acquisition by the unauthorized person causes or reasonably is believed will cause a material risk of identity theft or other fraud to the resident.</p> <p><b>Third Party Data Notification.</b> Any Entity that, on behalf of or at the direction of another Entity or on behalf of or at the direction of any governmental entity, is the custodian of or stores computerized data that includes PI shall notify that other Entity or governmental entity of any breach of the security of the system in an expeditious manner, if the PI was, or reasonably is believed to have been, accessed and acquired by an unauthorized person and if the access and acquisition by the unauthorized person causes or reasonably is believed will cause</p>

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a material risk of identity theft or other fraud to a resident of OH.

**Timing of Notification.** The disclosure shall be made in the most expedient time possible but not later than forty-five days following discovery or notification of the breach in the security of the system, consistent with any measures necessary to determine the scope of the breach, including which residents' PI was accessed and acquired, and to restore the reasonable integrity of the data system.

**Personal Information Definition.** An individual's name, consisting of the individual's first name or first initial and last name, in combination with and linked to any one or more of the following data elements, when the data elements are not encrypted, redacted, or altered by any method or technology in such a manner that the data elements are unreadable:

- SSN;
- Driver's license number or state ID card number;
- Account number or credit or debit card number, in combination with and linked to any required security code, access code, or password (e.g., a PIN) that would permit access to an individual's financial account;

PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or any of the following media that are widely distributed:

- Any news, editorial, or advertising statement published in any bona fide newspaper, journal, or magazine, or broadcast over radio or television, or any type of media similar in nature;
- Any gathering or furnishing of information or news by any bona fide reporter, correspondent, or news bureau to any bona fide newspaper, journal, magazine, radio or television news media, or any type of media similar in nature;
- Any publication designed for and distributed to members of any bona fide association or charitable or fraternal nonprofit corporation, or any type of media similar in nature.

**Notice Required.** Notice of breaches may be provided by any of the following methods:

- Written notice;

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- Telephonic notice; or
- Electronic notice, if the Entity's primary method of communication with the resident to whom the disclosure must be made is by electronic means.

**Substitute Notice Available.** If the Entity required to disclose demonstrates that the cost of providing disclosure or notice to residents to whom disclosure or notification is required would exceed \$250,000, that the affected class of subject residents to whom disclosure or notification is required exceeds 500,000 persons, or that it does not have sufficient contact information to provide written, telephonic or electronic notice. Substitute notice under this division shall consist of all of the following:

- Email notice if the Entity has an email address for the resident to whom the disclosure must be made;
- Conspicuous posting of the notice on the Entity's Web site, if it maintains a Web site; and
- Notification to major media outlets, to the extent that the cumulative total of the readership, viewing audience, or listening audience of all of the outlets so notified equals or exceeds seventy-five per cent of the population of Ohio.

**Substitute Notice Exception:** If the Entity required to disclose demonstrates it has ten employees or fewer and that the cost of providing the disclosures or notices to residents to whom disclosure or notification is required will exceed \$10,000. Substitute notice under this division shall consist of all of the following:

- Notification by a paid advertisement in a local newspaper that is distributed in the geographic area in which the Entity is located, which advertisement shall be of sufficient size that it covers at least one-quarter of a page in the newspaper and shall be published in the newspaper at least once a week for three consecutive weeks;
- Conspicuous posting of the disclosure or notice on the Entity's Web site, if it maintains one;
- Notification to major media outlets in the geographic area in which the Entity is located.

**Exception: Compliance with Other Laws.**

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	<ul style="list-style-type: none"> <li>• <b>Laws Regulating Financial Institutions.</b> A financial institution, trust company, or credit union or any affiliate of a financial institution, trust company, or credit union that is required by federal law, including, but not limited to, any federal statute, regulation, regulatory guidance, or other regulatory action, to notify its customers of an information security breach with respect to information about those customers and that is subject to examination by its functional government regulatory agency for compliance with the applicable federal law, is exempt from the requirements of the statute.</li> </ul> <p><b>Exception: Preexisting Contract.</b> Disclosure may be made pursuant to any provision of a contract entered into by the Entity with another Entity prior to the date the breach of the security of the system occurred if that contract does not conflict with any provision of this section and does not waive any provision of this section.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• <b>Delay for Law Enforcement.</b> The person may delay the disclosure if a law enforcement agency determines that the disclosure or notification will impede a criminal investigation or jeopardize homeland or national security, in which case, the person shall make the disclosure or notification after the law enforcement agency determines that disclosure or notification will not compromise the investigation or jeopardize homeland or national security.</li> <li>• <b>Notification to Consumer Reporting Agencies.</b> If an Entity discovers circumstances that require disclosure under this section to more than 1,000 residents of OH involved in a single occurrence of a breach of the security of the system, the Entity shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis of the timing, distribution, and content of the disclosure given by the Entity to the residents of OH. This requirement does not apply to "covered entities" as defined in HIPAA.</li> <li>• <b>AG Enforcement.</b> The AG may conduct an investigation and bring a civil action upon an alleged failure by an Entity to comply with this statute.</li> </ul>
<p><b>OKLAHOMA</b> H.B. 2357 (signed into law)</p>	<p><b>Application.</b> Any corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments,</p>

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June 8, 2006)

74 OKLA. STAT. § 3113.1

Effective November 1, 2008

governmental subdivisions, agencies, or instrumentalities, or any other legal entity, whether for profit or not-for-profit (collectively, "Entity") that owns or licenses computerized data that includes PI.

**Security Breach Definition.** Unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of PI maintained by an Entity as part of a database of PI regarding multiple individuals and that causes, or the Entity reasonably believes has caused or will cause, identity theft or other fraud to any resident of OK.

- Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used for a purpose other than a lawful purpose of the Entity or subject to further unauthorized disclosure.

**Notification Obligation.** Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to any resident of OK whose unencrypted and unredacted PI was or is reasonably believed to have been accessed and acquired by an unauthorized person and that causes, or the individual or entity reasonably believes has caused or will cause, identity theft or other fraud to any resident of OK.

- An Entity must disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form or if the security breach involves a person with access to the encryption key and the individual or entity reasonably believes that such breach has caused or will cause identity theft or other fraud to any resident of OK.

**Third Party Data Notification.** An Entity that maintains computerized data that includes PI that the Entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system as soon as practicable following discovery, if the PI was or if the Entity reasonably believes was accessed and acquired by an unauthorized person.

**Timing of Notification.** The disclosure shall be made without unreasonable delay except in order to take any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the system.

**Personal Information Definition.** The first name or first initial and last name of an individual in combination with and linked to any one

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or more of the following data elements that relate to a resident of OK, when the data elements are neither encrypted nor redacted:

- SSN;
- Driver's license or state identification card number issued in lieu of a driver license;
- Account number, credit or debit card number, in combination with any required security code, access code, or password (e.g., a PIN) that would permit access to the financial accounts of a resident.

PI shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public

**Notice Required.** Notice means one of the following methods:

- Written notice to the postal address in the records of the Entity;
- Telephonic notice; or
- Electronic notice.

**Substitute Notice Available.** If an Entity demonstrates that the cost of providing notice would exceed \$50,000, that the affected class of residents to be notified exceeds 100,000, or the Entity does not have sufficient contact information. Substitute notice consists of any two of the following:

- Email notice if the Entity has e-mail addresses for the members of the affected class of residents.
- Conspicuous posting of the notice on the Entity's Web site page, if the Entity maintains one.
- Notification to major statewide media.

**Exception: Own Notification Policy.** An entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of PI and that are consistent with the timing requirements of the statute shall be deemed to be in compliance with the notification requirements of the statute if it notifies residents of OK in accordance with its procedures in the event of a breach of security of the system.

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	<p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Interagency Guidance. A financial institution that complies with the notification requirements prescribed by the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice is deemed to be in compliance with the provisions of the statute.</li> <li>• Primary Regulator. An Entity that complies with the notification requirements or procedures pursuant to the rules, regulation, procedures, or guidelines established by the primary or functional federal regulator of the Entity shall be deemed to be in compliance with the provisions of the statute.</li> </ul> <p><b>Penalties.</b> The AG or a district attorney shall have exclusive authority to bring action and may obtain either actual damages for a violation of the statute or a civil penalty not to exceed \$150,000 per breach of the security of the system or series of breaches of a similar nature that are discovered in a single investigation.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. Notice required by this section may be delayed if a law enforcement agency determines and advises the Entity that the notice will impede a criminal or civil investigation or homeland or national security. Notice required by the Statute must be made without unreasonable delay after the law enforcement agency determines that notification will no longer impede the investigation or jeopardize national or homeland security.</li> <li>• AG Enforcement.</li> </ul>
<p><b>OREGON</b></p> <p>S.B. 583 (signed into law July 12, 2007)</p> <p>Effective October 1, 2007</p>	<p><b>Application.</b> Any individual, private or public corporation, partnership, cooperative, association, estate, limited liability company, organization or other entity, whether or not organized to operate at a profit, or a public body as defined in ORS 174.109 (collectively, "Entity") that owns, maintains or otherwise possesses data that includes an individual's PI that is used in the course of the Entity's business, vocation, occupation or volunteer activities and was subject to the breach of security.</p> <p><b>Security Breach Definition.</b> Unauthorized access and acquisition of computerized data that materially compromises the security,</p>

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	<p>confidentiality or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>• Does not include good faith acquisition of PI by an Entity or that Entity's employee or agent for a legitimate purpose of that Entity if the PI is not used in violation of applicable law or in a manner that harms or poses an actual threat to the security, confidentiality or integrity of the PI.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall give notice of the breach of security following discovery of such breach of security, or receipt of notification, to any individual whose PI was included in the information that was breached.</p> <ul style="list-style-type: none"> <li>• Notification is not required if, after an appropriate investigation or after consultation with relevant federal, state or local agencies responsible for law enforcement, the Entity reasonably determines that the breach has not and will not likely result in harm to the individuals whose PI has been acquired and accessed. Such a determination must be documented in writing and the documentation must be maintained for five years.</li> </ul> <p><b>Third Party Data Notification.</b> Any person that maintains or otherwise possesses PI through a licensing agreement with another person shall notify the owner or licensee of the information of any breach of security immediately following discovery of such breach of security if an individual's PI was included in the information that was breached.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine sufficient contact information for the individuals, determine the scope of the breach and restore the reasonable integrity, security and confidentiality of the data.</p> <p><b>Personal Information Definition.</b> An OR resident'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 rendered unusable through encryption, redaction or other methods, or when the data elements are encrypted and the encryption key has also been acquired:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or state ID card number issued by the Department of Transportation;</li> </ul>
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- ID number issued by a foreign nation;
- Passport number or other United States issued ID number;
- Financial account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an OR resident's financial account.

PI also includes any PI data element or any combination of the PI data elements if the information would be sufficient to permit an individual to fraudulently assume the identity of the OR resident whose information was compromised. PI does not include publicly available information, other than a SSN, that is lawfully made available to the general public from federal, state or local government records.

**Notice Required.** Notice under this section shall include at a minimum:

- A description of the incident in general terms;
- The approximate date of the breach of security;
- The type of PI obtained as a result of the breach of security;
- Contact information of the person subject to this section;
- Contact information for national consumer reporting agencies; and
- Advice to the individual to report suspected identity theft to law enforcement.

Notice may be provided by one of the following methods:

- Written notice;
- Telephone notice, provided that contact is made directly with the affected individual.
- Electronic notice if the Entity's primary method of communication with the individual is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in the Electronic Signatures in Global and National Commerce Act. P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost

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of providing notice would exceed \$250,000, that the affected class of individuals to be notified exceeds 350,000, or if the Entity does not have sufficient contact information to provide notice. Substitute notice consists of the following:

- Conspicuous posting of the notice or a link to the notice on the Internet home page of the Entity if the Entity maintains one; and
- Notification to major statewide television and newspaper media.

**Exception: Compliance with Other Laws.**

- Primary Regulator. An Entity that complies with the notification requirements or breach of security procedures that provide greater protection to PI and at least as thorough disclosure requirements pursuant to the rules, regulations, procedures, guidance or guidelines established by the Entity's primary or functional federal regulator.
- GLBA. A person that complies with regulations regarding notification requirements or breach of security procedures that provide greater protection to PI and at least as thorough disclosure requirements promulgated pursuant to title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 to 6809).
- More restrictive State or Federal Law. An Entity that complies with a state or federal law that provides greater protection to PI and at least as thorough disclosure requirements for breach of security of PI than that provided by this section.

**Other key provisions:**

- Delay for Law Enforcement. Notification may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and that agency has made a written request that the notification be delayed. The required notification shall be made after that law enforcement agency determines that its disclosure will not compromise the investigation and notifies the Entity in writing.
- Notification to Consumer Reporting Agencies. If an Entity discovers a breach of security affecting more than 1,000 individuals that requires disclosure under this section, the Entity shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain reports on

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	<p>individuals on a nationwide basis of the timing, distribution and content of the notification given by the Entity to the individuals. The Entity shall include the police report number, if available, in its notification to the consumer reporting agencies.</p>
<p><b>PENNSYLVANIA</b></p> <p>S.B. 712 (signed into law Dec. 22, 2005, Act No. 94)</p> <p>73 PA. CONS. STAT. § 2302 <i>et seq.</i></p> <p>Effective June 22, 2006</p>	<p><b>Application.</b> Any State agency, political subdivision, or an individual or a business (collectively, "Entity") doing business in PA that maintains, stores or manages computerized data that includes PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity conducts business in PA.</p> <p><b>Security Breach Definition.</b> Unauthorized access and acquisition of computerized data that materially compromises the security or confidentiality of PI maintained by the Entity as part of a database of PI regarding multiple individuals and that causes or the Entity reasonably believes has caused or will cause loss or injury to any resident of PA.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security of the system if the PI is not used for a purpose other than the lawful purpose of the Entity and is not subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall provide notice of any breach of the security of the system following discovery of the breach of the security of the system to any individual whose principal mailing address, as reflected in the computerized data which is maintained, stored or managed by the Entity, is in PA whose unencrypted and unredacted PI was or is reasonably believed to have been accessed and acquired by an unauthorized person.</p> <ul style="list-style-type: none"> <li>• An Entity must provide notice of the breach if encrypted information is accessed and acquired in an unencrypted form, if the security breach is linked to a breach of the security of the encryption or if the security breach involves a person with access to the encryption.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains, stores or manages computerized data on behalf of another Entity shall provide notice of any breach of the security system following discovery to the Entity on whose behalf the it maintains, stores or manages the data.</p> <p><b>Timing of Notification.</b> Except in order to take any measures</p>

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	<p>necessary to determine the scope of the breach and to restore the reasonable integrity of the data system, the notice shall be made without unreasonable delay.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with and linked to any one or more of the following data elements when the data elements are not encrypted or redacted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or state ID card number issued in lieu of a driver's license;</li> <li>• Financial account number, credit 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;</li> </ul> <p>PI does not include publicly available information that is lawfully made available to the general public from Federal, State or local government records</p> <p><b>Notice Required.</b> Notice may be provided by any of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice to the last known home address for the individual;</li> <li>• Telephonic notice, if the customer can be reasonably expected to receive it and the notice is given in a clear and conspicuous manner, describes the incident in general terms and verifies PI but does not require the customer to provide PI, and the customer is provided with a telephone number to call or Internet Web site to visit for further information or assistance; or</li> <li>• Email notice, if a prior business relationship exists and the Entity has a valid email address for the individual.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$100,000, the affected class of subject persons to be notified exceeds 175,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of <u>all</u> of the following:</p> <ul style="list-style-type: none"> <li>• Email notice when the Entity has an email address for the</li> </ul>
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subject persons;

- Conspicuous posting of the notice on the Entity's Internet Web site if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of PI and is consistent with the notice requirements of this act shall be deemed to be in compliance with the notification requirements of this act if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws**

- **Compliance with Primary Regulator.** An Entity that complies with the notification requirements or procedures pursuant to the rules, regulations, procedures or guidelines established by the Entity's primary or functional Federal regulator shall be in compliance with this act.
- **Federal Interagency Guidance.** A financial institution that complies with the notification requirements prescribed by the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice is deemed to be in compliance with this act.

**Other key provisions:**

- **Delay for Law Enforcement.** The notification required by this act may be delayed if a law enforcement agency determines and advises the Entity in writing, specifically referencing the statute, that the notification will impede a criminal or civil investigation. The required notification shall be made after the law enforcement agency determines that it will not compromise the investigation or national or homeland security.
- **Notification to Consumer Reporting Agencies.** When an Entity provides notification under this act to more than 1,000 persons at one time, the Entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis of the timing, distribution and number of notices.
- **AG Enforcement.** The AG shall have exclusive authority to

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	bring an action under the Unfair Trade Practices and Consumer Protection Law for a violation of the statute.
<p><b>PUERTO RICO</b>  DACO Reglamentos 7207, 7336, and 7376</p>	<p><b>Application.</b> A corporation, institution, company or collective partnership that is considered a legal entity (collectively, "Entity") that maintains or has custody over PI about a PR resident.</p> <p><b>Security Breach Definition.</b> Unauthorized access to storage of PI that compromises the security confidentiality or integrity of the PI; or access by persons who are authorized who have knowingly violated their professional confidentiality obligations, or have obtained the information under false pretenses, with the intention of using it for illegal purposes. Security breach includes access to PI through a computer system as well as physical access.</p> <p><b>Notification Obligation.</b> The Entity that maintains the archive of PI must notify the individuals whose information was compromised. The Entity must also notify DACO within 10 days of detecting the breach.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient manner possible.</p> <p><b>Personal Information Definition.</b> An individual's first name or first initial and last name in combination with any of the following data elements, when the name or the data elements are readable without an encryption key:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number;</li> <li>• Election registration or voter registration number;</li> <li>• Other official ID card information</li> <li>• Bank or financial account numbers with or without the keys or passwords to access those accounts;</li> <li>• Usernames and passwords to access information systems, whether public or private;</li> <li>• Medical information protected by HIPAA;</li> <li>• Laboratory results.</li> </ul> <p>Personal information does not include publicly available information or addresses.</p>

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	<p><b>Notice Required.</b> Notice may be provided by any of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice;</li> <li>• Electronic notice.</li> </ul> <p><b>Substitute Notice Available.</b> If the Entity demonstrates that the cost of providing notice would exceed \$100,000, or that the affected class of subject persons to be notified exceeds 100,000. Substitute notice shall consist of the following:</p> <ul style="list-style-type: none"> <li>• Publication (see statute for details).</li> </ul>
<p><b>RHODE ISLAND</b>  H.B. 6191 (became law without Governor's signature, July 10, 2005, Chapter 225)  R.I. GEN. LAWS § 11- 49.2-1 <i>et seq.</i>  Effective March 1, 2006</p>	<p><b>Application.</b> A state agency, individual, partnership association, corporation or joint venture (collectively, "Entity") that owns, maintains or licenses computerized data that includes PI.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security of the system; provided that the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system which poses a significant risk of identity theft following discovery or notification of the breach in the security of the data to any resident of RI whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person or a person without authority, to acquire said information.</p> <ul style="list-style-type: none"> <li>• Notification of a breach is not required if, after an appropriate investigation or after consultation with relevant federal, state, or local law enforcement agencies, a determination is made that the breach has not and will not likely result in a significant risk of identity theft to the individuals whose PI has been acquired.</li> </ul> <p><b>Third Party Data Notification.</b> Any Entity that maintains computerized unencrypted data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the data which poses a significant risk of</p>

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identity theft immediately, following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.

**Timing of Notification.** The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

**Personal Information Definition.** 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:

- SSN;
- Driver's license number or RI ID card number;
- Account number, credit 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.

**Notice Required.** Notice may be provided by any of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$25,000, or that the affected class of subject persons to be notified exceeds 50,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Entity's Web site if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** Any Entity that maintains its own security breach procedures as part of an information security policy for the treatment of PI and otherwise complies with the timing

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requirements of the statute, shall be deemed to be in compliance with the security breach notification, provided such Entity notifies subject persons in accordance with such Entity's policies in the event of a breach of security.

**Exception: Compliance with Other Laws.**

- **Compliance with Primary Regulator.** Any Entity that maintains a security breach procedure pursuant to the rules, regulations, procedures or guidelines established by the primary or functional regulator, as defined in 15 USC 6809(2), shall be deemed to be in compliance with the security breach notification requirements of this section, provided such Entity notifies subject persons in accordance with the policies or the rules, regulations, procedures or guidelines established by the primary or functional regulator in the event of a breach of security of the system.
- **Federal Interagency Guidance.** A financial institution, trust company, credit union or its affiliates that is subject to and examined for, and found in compliance with the Federal Interagency Guidelines on Response Programs for Unauthorized Access to Customer Information and Customer Notice shall be deemed in compliance with this chapter.
- **HIPPA Covered Entities.** A provider of health care, health care service plan, health insurer, or a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall be deemed in compliance with this chapter.

**Penalties.** Each violation is a civil violation for which a penalty of not more than \$100 per occurrence and not more than \$25,000 may be adjudged against a defendant.

**Other key provisions:**

- **Delay for Law Enforcement.** The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The required notification shall be made after the law enforcement agency determines that it will not compromise the investigation.

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	<ul style="list-style-type: none"> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>SOUTH CAROLINA</b>  S.B. 453 (signed into law April 2, 2008)  Effective July 1, 2009</p>	<p><b>Application.</b> A natural person, an individual, or a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative or association (collectively, "Entity") conducting business in SC, and owning or licensing computerized data or other data that includes PI.</p> <p><b>Security Breach Definition.</b> Unauthorized access to and acquisition of computerized data that was not rendered unusable through encryption, redaction, or other methods that compromises the security, confidentiality, or integrity of PI maintained by the Entity, when illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to a resident.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of its business is not a breach of the security of the system if the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose a breach of the security of the system following discovery or notification of the breach in the security of the data to a resident of SC whose PI that was not rendered unusable through encryption, redaction, or other methods was, or is reasonably believed to have been, acquired by an unauthorized person when the illegal use of the information has occurred or is reasonably likely to occur or use of the information creates a material risk of harm to the resident.</p> <p><b>Third Party Data Notification.</b> An Entity conducting business in SC and maintaining computerized data or other data that includes PI that the Entity does not own shall notify the owner or licensee of the information of a breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> The first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of SC, when the data</p>

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elements are neither encrypted nor redacted:

- SSN;
- Driver's license number or state ID card number issued instead of a driver's license;
- Financial account number, or credit card or debit card number in combination with any required security code, access code, or password that would permit access to a resident's financial account; or
- Other numbers or information which may be used to access a person's financial accounts or numbers or information issued by a governmental or regulatory entity that uniquely will identify an individual.

PI does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice;
- Telephonic notice;
- Electronic notice, if the person's primary method of communication with the individual is by electronic means or is consistent with the provisions regarding electronic records and signatures in Section 7001 of Title 15 USC and Chapter 6, Title 11 of the 1976 Code (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice exceeds \$250,000 or that the affected class of subject persons to be notified exceeds 500,000 or the person has insufficient contact information. Substitute notice consists of:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Entity's Web site page, if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its

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own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with the notification requirements of the statute if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- GLBA. This section does not apply to a bank or financial institution that is subject to and in compliance with the privacy and security provision of the Gramm-Leach-Bliley Act.
- Interagency Guidance. A financial institution that is subject to and in compliance with the federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, as amended, is considered to be in compliance with this section.

**Penalties.** A resident of SC injured by a violation of the statute, in addition to and cumulative of all other rights and remedies available at law, may:

- Institute a civil action to recover damages in case of a willful and knowing violation;
- Institute a civil action that must be limited to actual damages resulting from a violation in case of a negligent violation of this section;
- Seek an injunction to enforce compliance; and
- Recover attorney's fees and court costs, if successful.

A person who knowingly and willfully violates this section is subject to an administrative fine in the amount of one thousand dollars for each resident whose information was accessible by reason of the breach, the amount to be decided by the Department of Consumer Affairs.

**Other key provisions:**

- Delay for Law Enforcement. The notification required by the statute may be delayed if a law enforcement agency

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	<p>determines that the notification impedes a criminal investigation. The notification required by the statute must be made after the law enforcement agency determines that it no longer compromises the investigation.</p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. If an Entity provides notice to more than 1000 persons at one time pursuant to the statute, the Entity shall notify, without unreasonable delay, the Consumer Protection Division of the Department of Consumer Affairs and all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined in 15 USC Section 1681a(p), of the timing, distribution, and content of the notice.</li> </ul>
<p><b>TENNESSEE</b>  H.B. 2170 (signed into law June 8, 2005, Chapter 473)  TENN. CODE ANN. § 47-18-2107  Effective July 1, 2005</p>	<p><b>Application.</b> Any person or business that conducts business in TN, or any agency of the State of TN or any of its political subdivisions (collectively, "Entity"), that owns or licenses computerized data that includes PI. The provisions governing maintenance of PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity conducts business in TN.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security of the system; provided that the PI is not used or subject to further unauthorized disclosure</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system, following discovery or notification of the breach in the security of the data, to any resident of TN whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> Any Entity that maintains computerized data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures</p>

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necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

**Personal Information Definition.** 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:

- SSN;
- Driver's license number;
- Account number, credit 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.

PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds five hundred thousand 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Entity's Web site page, if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of the statute shall be deemed to be in compliance with

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	<p>the notification requirements of the statute if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.</p> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• GLBA. The provisions of this statute shall not apply to any Entity that is subject to the provisions of Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notification required may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The required notification shall be made after the law enforcement agency determines that it will not compromise the investigation.</li> <li>• Notification to Consumer Reporting Agencies. If an Entity is required to notify more than 1,000 persons at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis of the timing, distribution and content of the notices.</li> </ul>
<p><b>TEXAS</b> S.B. 122 (signed into law June 17, 2005)  TEX. BUS. &amp; COM. CODE ANN. § 48.103  Effective September 1, 2005</p>	<p><b>Application.</b> A person ("Entity") that conducts business in TX and owns or licenses computerized data that includes sensitive PI. The provisions governing maintenance of Sensitive PI that the Entity does not own appear applicable to any Entity maintaining PI, whether or not the Entity conducts business in TX.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive PI maintained by an Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of sensitive PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of system security unless the sensitive PI is used or disclosed by the person in an unauthorized manner</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of system security, after discovering or receiving notification of the breach, to any resident of TX whose sensitive PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Third Party Data Notification.</b> Any Entity that maintains</p>

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computerized data that includes sensitive PI that the Entity does not own shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive PI was, or is reasonably believed to have been, acquired by an unauthorized person.

**Timing of Notification.** The disclosure shall be made as quickly as possible, consistent with the legitimate needs of law enforcement or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

**Sensitive Personal Information Definition.** An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

- SSN;
- Driver's license number or government-issued ID number;
- Account number or credit 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.

Sensitive PI does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice is provided in accordance with P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the Entity does not have sufficient contact information, the notice may be given by:

- Email notice when the Entity has an email address for the affected persons;
- Conspicuous posting of the notice on the person's Web site or
- Notice published in or broadcast on major statewide media.

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	<p><b>Exception: Own Notification Policy.</b> An Entity that maintains its own notification procedures as part of an information security policy for the treatment of sensitive PI that complies with the timing requirements for notice under this section complies with this section if the Entity notifies affected persons in accordance with that policy.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. An Entity may delay providing notice at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that it will not compromise the investigation.</li> <li>• Notification to Consumer Reporting Agencies. If an Entity is required by this section to notify at one time more than 10,000 persons of a breach of system security, the Entity shall also notify, without unreasonable delay, all consumer reporting agencies that maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notices.</li> </ul>
<p><b>UTAH</b></p> <p>S.B. 69 (signed into law March 20, 2006, Session Law Chapter 343)</p> <p>UTAH CODE ANN. § 13-44-101 to 13-44-301</p> <p>Effective January 1, 2007</p>	<p><b>Application.</b> Any person ("Entity") who owns or licenses computerized data that includes PI concerning a UT resident.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of computerized data maintained by an Entity that compromises the security, confidentiality, or integrity of PI.</p> <ul style="list-style-type: none"> <li>• Does not include the acquisition of PI by an employee or agent of the Entity possessing unencrypted computerized data unless the PI is used for an unlawful purpose or disclosed in an unauthorized manner.</li> </ul> <p><b>Notification Obligation.</b> If an investigation reveals that the misuse of PI for identity theft or fraud purposes has occurred, or is reasonably likely to occur, the person shall provide notification to each affected UT resident.</p> <ul style="list-style-type: none"> <li>• Notification not required if after a good faith, reasonable and prompt investigation the Entity determines that it is unlikely that PI has been or will be misused for identity theft or fraud purposes.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI that the Entity does not own or</p>

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license shall notify and cooperate with the owner or licensee of the information of any breach of system security immediately following the Entity's discovery of the breach if misuse of the PI occurs or is reasonably likely to occur.

**Timing of Notification.** Notification shall be provided in the most expedient time possible without unreasonable delay, after determining the scope of the breach of system security and after restoring the reasonable integrity of the system.

**Personal Information Definition.** A person's first name or first initial and last name, combined with any one or more of the following data elements relating to that person when either the name or data element is unencrypted or not protected by another method that renders the data unreadable or unusable:

- SSN;
- Driver's license number or state ID card number;
- Financial account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to the person's account.

PI does not include information regardless of its source, contained in federal, state, or local government records or in widely distributed media that are lawfully made available to the general public

**Notice Required.** Notice may be provided by one of the following methods:

- In writing by first-class mail to the most recent address the Entity has for the resident;
- By telephone, including through the use of automatic dialing technology not prohibited by other law;
- Electronically, if the Entity's primary method of communication with the resident is by electronic means, or if provided in accordance with the consumer disclosure provisions of P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act);
- By publishing notice of the breach of system security in a newspaper of general circulation.

**Substitute Notice.** Substitute notice is not available in UT.

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	<p><b>Exception: Own Notification Policy.</b> If an Entity maintains its own notification procedures as part of an information security policy for the treatment of PI the Entity is considered to be in compliance with this chapter's notification requirements if the procedures are otherwise consistent with this chapter's timing requirements and the Entity notifies each affected UT resident in accordance with the Entity's information security policy in the event of a breach.</p> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Primary Regulator. An Entity who is regulated by state or federal law and maintains procedures for a breach of system security under applicable law established by the primary state or federal regulator is considered to be in compliance with this part if the Entity notifies each affected UT resident in accordance with the other applicable law in the event of a breach.</li> </ul> <p><b>Penalties.</b> Violations are subject to a civil fine of no greater than \$2,500 for a violation or series of violations concerning a specific consumer; and no greater than \$100,000 in the aggregate for related violations concerning more than one consumer.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. An Entity may delay providing notification at the request of a law enforcement agency that determines that notification may impede a criminal investigation. Notification shall be provided in good faith, without unreasonable delay, and in the most expedient time possible after the law enforcement agency informs the person that notification will no longer impede the criminal investigation.</li> <li>• AG Enforcement available.</li> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>VERMONT</b></p> <p>S. 284 (signed into law May 18, 2006, Act 162)</p> <p>VT. STAT. ANN. tit. 9, § 2430 <i>et seq.</i></p>	<p><b>Application.</b> Any data collector, including, but not limited to, the state, state agencies, political subdivisions of the state, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with nonpublic PI (collectively, "Entity"), that owns or licenses computerized PI that includes PI concerning an individual residing in</p>

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Effective January 1, 2007

VT.

**Security Breach Definition.** Unauthorized acquisition or access of computerized data that compromises the security, confidentiality, or integrity of PI maintained by an Entity.

- Does not include good faith but unauthorized acquisition or access of PI by an employee or agent of the Entity for a legitimate purpose of the Entity, provided that the PI is not used for a purpose unrelated to the Entity's business or subject to further unauthorized disclosure.

**Notification Obligation.** Any Entity to which the statute applies shall notify affected individuals residing in VT that there has been a security breach following discovery or notification to the Entity of the breach.

- Notice of a security breach is not required if the Entity establishes that misuse of PI is not reasonably possible and the Entity provides notice of the determination that the misuse of the PI is not reasonably possible and a detailed explanation for said determination to the VT AG or to the Department of Banking, Insurance, Securities, and Health Care Administration in the event that the Entity is a person or entity licensed or registered with the Department.

**Third Party Data Notification.** Any Entity that maintains or possesses computerized data containing PI of an individual residing in VT that the Entity does not own or license or any Entity that conducts business in VT that maintains or possesses records or data containing PI that the Entity does not own or license shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach, consistent with the legitimate needs of law enforcement.

**Timing of Notification.** Notice of the breach shall be made in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity, security, and confidentiality of the data system.

**Personal Information Definition.** 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 or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

- SSN;

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	<ul style="list-style-type: none"> <li>• Motor vehicle operator's license number or nondriver ID card number;</li> <li>• Financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;</li> <li>• Account passwords or personal ID numbers or other access codes for a financial account.</li> </ul> <p>PI does not mean publicly available information that is lawfully made available to the general public from federal, state, or local government records</p> <p><b>Notice Required.</b> The notice shall be clear and conspicuous. The notice shall include a description of the following:</p> <ul style="list-style-type: none"> <li>• The incident in general terms.</li> <li>• The type of PI that was subject to the unauthorized access or acquisition.</li> <li>• The general acts of the Entity to protect the PI from further unauthorized access or acquisition.</li> <li>• A toll-free telephone number that the consumer may call for further information and assistance.</li> <li>• Advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports.</li> </ul> <p>Notice may be provided by one of the following methods:</p> <ul style="list-style-type: none"> <li>• Written notice mailed to the individual's residence;</li> <li>• Telephonic notice, provided that telephonic contact is made directly with each affected resident of VT, and the telephonic contact is not through a prerecorded message.</li> <li>• Electronic notice, for those individuals for whom the Entity has a valid e-mail address if: (a) the Entity does not have the individual's address or telephone contact information, the Entity's primary method of communication with the individual is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the individual</li> </ul>
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provide PI, and the electronic notice conspicuously warns individuals not to provide PI in response to electronic communications regarding security breaches; or (b) the notice provided is consistent with the provisions regarding electronic records and signatures for notices as set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing written or telephonic notice to affected residents would exceed \$5,000 or that the affected class of affected residents to be provided written or telephonic notice exceeds 5,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Conspicuous posting of the notice on the Entity's Web site if the Entity maintains one; and
- Notification to major statewide and regional media.

**Exception: Compliance with Other Laws.**

- Federal Interagency Guidance. A financial institution that is subject to the following guidances, and any revisions, additions, or substitutions relating to said interagency guidance shall be exempt from this section: (a) The Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision; or (2) Final Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice, issued on April 14, 2005, by the National Credit Union Administration.

**Other key provisions:**

- Delay for Law Enforcement. The required notice shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or homeland security investigation, or jeopardize public safety or national or homeland security interests. In the event law enforcement makes the request in a manner other than in writing, the Entity shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law

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	<p>enforcement agency engaged in the investigation. The Entity shall provide the required notice without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.</p> <ul style="list-style-type: none"> <li>• Notification to Consumer Reporting Agencies. In the event an Entity is required to provide notice to more than 1,000 residents of VT at one time, the Entity shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notice. This subsection shall not apply to a person who is licensed or registered under Title 8 by the department of banking, insurance, securities, and health care administration.</li> <li>• AG Enforcement available.</li> <li>• Statute does not permit waiver by contract or other means.</li> </ul>
<p><b>VIRGINIA</b></p> <p>S.B. 307 (signed into law March 11, 2008)</p> <p>Effective July 1, 2008</p>	<p><b>Application.</b> An individual, corporation, business trust, estate, partnership, limited partnership, limited liability partnership, limited liability company, association, organization, joint venture, government, governmental subdivision, agency, or instrumentality or any other legal entity, whether for profit or not for profit (collectively, "Entity") that owns or licenses computerized data that includes PI.</p> <p><b>Security Breach Definition.</b> Unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of PI maintained by an Entity as part of a database of PI regarding multiple individuals and that causes, or the Entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of VA.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used for a purpose other than a lawful purpose of the individual or entity or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> If unencrypted or unredacted PI was or is reasonably believed to have been accessed and acquired by an unauthorized person and causes, or the Entity reasonably believes has caused or will cause, identity theft or another fraud to any resident of VA, an Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the</p>

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breach of the security of the system to the Office of the AG and any affected resident of VA.

- An Entity shall disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form, or if the security breach involves a person with access to the encryption key and the Entity reasonably believes that such a breach has caused or will cause identity theft or other fraud to any resident of VA.
- In the event an Entity provides notice to more than 1,000 persons at one time pursuant to this section, the individual or entity shall notify, without unreasonable delay, the Office of the AG of the timing, distribution, and content of the notice.

**Third Party Data Notification.** An Entity that maintains computerized data that includes PI that the Entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system without unreasonable delay following discovery of the breach of the security of the system, if the PI was accessed and acquired by an unauthorized person or the Entity reasonably believes the PI was accessed and acquired by an unauthorized person.

**Timing of Notification.** Notice required by the statute shall be made without unreasonable delay. Notice may be reasonably delayed to allow the individual or entity to determine the scope of the breach of the security of the system and restore the reasonable integrity of the system.

**Personal Information Definition.** The first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

- SSN;
- Driver's license number or state identification card number issued in lieu of a driver's license number; or
- Financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial accounts.

PI does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government

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records lawfully made available to the general public.

**Notice Required.** The notice required by this section shall include a description of the following:

- The incident in general terms;
- The type of PI that was subject to the unauthorized access and acquisition;
- The general acts of the individual or entity to protect the PI from further unauthorized access;
- A telephone number that the person may call for further information and assistance, if one exists; and
- Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

Notice means:

- Written notice to the last known postal address in the records of the individual or entity;
- Telephone notice; or
- Electronic notice.

**Substitute Notice Available.** If the Entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000, the affected class of VA residents to be notified exceeds 100,000 residents, or the individual or the entity does not have sufficient contact information or consent to provide written, electronic or telephonic notice. Substitute notice consists of all of the following:

- E-mail notice if the individual or the entity has e-mail addresses for the members of the affected class of residents;
- Conspicuous posting of the notice on the website of the individual or the entity if the individual or the entity maintains a website; and
- Notice to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of PI that are consistent with the timing requirements of this section shall be deemed to be in

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	<p>compliance with the notification requirements of this section if it notifies residents of VA in accordance with its procedures in the event of a breach of the security of the system.</p> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• <b>GLBA.</b> An entity that is subject to Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) and maintains procedures for notification of a breach of the security of the system in accordance with the provision of that Act and any rules, regulations, or guidelines promulgated thereto shall be deemed to be in compliance with this section.</li> <li>• <b>Primary Regulator.</b> An entity that complies with the notification requirements or procedures pursuant to the rules, regulations, procedures, or guidelines established by the entity's primary or functional state or federal regulator shall be in compliance with this section.</li> </ul> <p><b>Penalties.</b> The Office of the Attorney General may impose a civil penalty not to exceed \$150,000 per breach of the security of the system or a series of breaches of a similar nature that are discovered in a single investigation.</p> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• <b>Delay for Law Enforcement.</b> Notice required by this section may be delayed if, after the Entity notifies a law-enforcement agency, the law-enforcement agency determines and advises the Entity that the notice will impede a criminal or civil investigation, or homeland or national security. Notice shall be made without unreasonable delay after the law-enforcement agency determines that the notification will no longer impede the investigation or jeopardize national or homeland security.</li> <li>• <b>Notification to Consumer Reporting Agencies.</b> In the event an Entity provides notice to more than 1,000 persons at one time pursuant to this section, the Entity shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. Section 1682(a)(p), of the timing, distribution, and content of the notice..</li> <li>• <b>AG Enforcement.</b></li> </ul>
<p><b>WASHINGTON</b> S.B. 6043 (signed into law May</p>	<p><b>Application.</b> Any state or local agency or any person or business which conducts business in WA (collectively, "Entity") that owns or</p>

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<p>10, 2005, Chapter 368)  WASH. REV. CODE Tit. 19  Effective July 24, 2005</p>	<p>licenses computerized data that includes PI.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of PI maintained by the Entity.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of the Entity for the purposes of the Entity is not a breach of the security of the system when the PI is not used or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of WA whose unencrypted PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <ul style="list-style-type: none"> <li>• An Entity shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.</li> </ul> <p><b>Third Party Data Notification.</b> Any Entity that maintains computerized data that includes PI that the Entity does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the PI was, or is reasonably believed to have been, acquired by an unauthorized person.</p> <p><b>Timing of Notification.</b> The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.</p> <p><b>Personal Information Definition.</b> 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 <u>or</u> the data elements are not encrypted:</p> <ul style="list-style-type: none"> <li>• SSN;</li> <li>• Driver's license number or Washington ID card number;</li> <li>• Account number or credit 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.</li> </ul>
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PI does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

**Notice Required.** Notice may be provided by one of the following methods:

- Written notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in P.L. 106-229; 114 Stat. 464; 15 United States Code § 7001 (E-SIGN Act).

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the Entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Email notice when the Entity has an email address for the subject persons;
- Conspicuous posting of the notice on the Entity's Web site, if the Entity maintains one; and
- Notification to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information security policy for the treatment of PI and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the Entity notifies subject persons in accordance with its policies in the event of a breach of security of the system.

**Other key provisions:**

- Delay for Law Enforcement. Notification may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The required notification shall be made after the law enforcement agency determines that it will not compromise the investigation.
- Statute does not permit waiver by contract or other means.

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<p><b>WEST VIRGINIA</b></p> <p>S.B. 340 (signed into law March 27, 2008)</p> <p>W. VA. Code § 46A-2A-101 to 105</p> <p>Effective June 6, 2008</p>	<p><b>Application.</b> An individual, corporation, business trust, estate, partnership, limited partnership, limited liability partnership, limited liability company, association, organization, joint venture, government, governmental subdivision, agency or instrumentality, or any other legal entity, whether for profit or not for profit, (collectively, "Entity") that owns or licenses computerized data that includes PI.</p> <p><b>Security Breach Definition.</b> Unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of PI maintained by an Entity as part of a database of PI regarding multiple individuals and that causes the Entity to reasonably believe that the breach of security has caused or will cause identity theft or other fraud to any resident of WV.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the system, provided that the PI is not used for a purpose other than a lawful purpose of the Entity or subject to further unauthorized disclosure.</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall give notice of any breach of the security of the system following discovery or notification of the breach of the security of the system to any resident of WV whose unencrypted and unredacted PI was or is reasonably believed to have been accessed and acquired by an unauthorized person and that causes, or the individual or entity reasonably believes has caused or will cause, identity theft or other fraud to any resident of WV.</p> <ul style="list-style-type: none"> <li>• An Entity must give notice of the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form or if the security breach involves a person with access to the encryption key and the Entity reasonably believes that such breach has caused or will cause identity theft or other fraud to any resident of this state.</li> </ul> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI that the Entity does not own or license shall give notice to the owner or licensee of the information of any breach of the security of the system as soon as practicable following discovery, if the PI was or the Entity reasonably believes was accessed and acquired by an unauthorized person..</p> <p><b>Timing of Notification.</b> Except in order to take any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the system, the notice shall be made without</p>
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unreasonable delay.

**Personal Information Definition.** The first name or first initial and last name linked to any one or more of the following data elements that relate to a resident of WV, when the data elements are neither encrypted nor redacted:

- SSN;
- Driver's license number or state ID card number issued in lieu of a driver's license; or
- Financial account number, or credit card, or debit card number in combination with any required security code, access code or password that would permit access to a resident's financial accounts.

PI does not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.

**Notice Required.** The notice shall include:

- To the extent possible, a description of the categories of information that were reasonably believed to have been accessed or acquired by an unauthorized person, including SSNs, driver's licenses or state ID numbers and financial data;
- A telephone number or website address that the individual may use to contact the entity or the agent of the entity and from whom the individual may learn: what types of information the entity maintained about that individual or about individuals in general; and whether or not the entity maintained information about that individual.
- The toll-free contact telephone numbers and addresses for the major credit reporting agencies and information on how to place a fraud alert or security freeze.

Notice may be provided by one of the following methods:

- Written notice to the postal address in the records of the Entity;
- Telephonic notice;
- Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures, set

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forth in Section 7001, United States Code Title 15, Electronic Signatures in Global and National Commerce Act.

**Substitute Notice Available.** If an Entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000 or that the affected class of residents to be notified exceeds 100,000 persons or that the Entity does not have sufficient contact information to provide notice. Substitute notice consists of any two of the following:

- E-mail notice if the Entity has e-mail addresses for the members of the affected class of residents;
- Conspicuous posting of the notice on the website of the Entity if the Entity maintains a website; or
- Notice to major statewide media.

**Exception: Own Notification Policy.** An Entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of PI and that are consistent with the timing requirements of this article shall be deemed to be in compliance with the notification requirements of this article if it notifies residents of WV in accordance with its procedures in the event of a breach of security of the system.

**Exception: Compliance with Other Laws.**

- Federal Interagency Guidance. A financial institution that responds in accordance with the notification guidelines prescribed by the Federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice is deemed to be in compliance with this article.
- Primary Regulator. An Entity that complies with the notification requirements or procedures pursuant to the rules, regulation, procedures or guidelines established by the Entity's primary or functional regulator shall be in compliance with this article.

**Other key provisions:**

- Delay for Law Enforcement. Notice required by this section may be delayed if a law-enforcement agency determines and advises the Entity that the notice will impede a criminal or civil investigation or homeland or national security. Notice required by this section must be made without unreasonable

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	<p>delay after the law-enforcement agency determines that notification will no longer impede the investigation or jeopardize national or homeland security.</p> <ul style="list-style-type: none"> <li>• AG Enforcement.</li> <li>• Notification to Consumer Reporting Agencies. If an Entity is required to notify more than 1000 persons of a breach of security pursuant to this article, the Entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on a nationwide basis, as defined by 15 U. S. C. §1681a (p), of the timing, distribution and content of the notices. Nothing in this subsection shall be construed to require the entity to provide to the consumer reporting agency the names or other PI of breach notice recipients.</li> <li>• This subsection shall not apply to an entity that is subject to Title V of the Gramm Leach Bliley Act, 15 U. S. C. 6801, et seq.</li> </ul>
<p><b>WISCONSIN</b></p> <p>S.B. 164 (signed into law March 16, 2006, Act 138)</p> <p>WIS. STAT. § 895.507</p> <p>Effective March 31, 2006</p>	<p><b>Application.</b> Any Entity that maintains or licenses PI in WI or that knows that PI pertaining to a resident of WI has been acquired by a person whom the Entity has not authorized to acquire the PI. Entity includes: the state of WI and any office, department, independent agency, authority, institution, association, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature and the courts; a city, village, town, or county; a person, other than an individual, that does any of the following:</p> <ul style="list-style-type: none"> <li>• Conducts business in this state and maintains PI in the ordinary course of business.</li> <li>• Licenses PI in this state.</li> <li>• Maintains for a resident of this state a depository account.</li> <li>• Lends money to a resident of this state.</li> </ul> <p><b>Security Breach Definition.</b> When an Entity whose principal place of business is located in WI or an Entity that maintains or licenses PI in WI knows that PI in the Entity's possession has been acquired by a person whom the Entity has not authorized to acquire the PI, or, in the case of an Entity whose principle place of business is not located in WI, when it knows that PI pertaining to a resident of WI has been</p>

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acquired by a person whom the Entity has not authorized to acquire the PI

**Notification Obligation.** Any Entity to which the statute applies shall make reasonable efforts to notify each subject of the PI.

- An Entity is not required to provide notice of the acquisition of PI if the acquisition of PI does not create a material risk of identity theft or fraud to the subject of the PI or if the PI was acquired in good faith by an employee or agent of the Entity, if the PI is used for a lawful purpose of the Entity

**Third Party Data Notification.** If a person, other than an individual, that stores PI pertaining to a resident of WI, but does not own or license the PI, knows that the PI has been acquired by a person whom the person storing the PI has not authorized to acquire the PI, and the person storing the PI has not entered into a contract with the person that owns or licenses the PI, the person storing the PI shall notify the person that owns or licenses the PI of the acquisition as soon as practicable.

**Timing of Notification.** An Entity shall provide the notice within a reasonable time, not to exceed 45 days after the Entity learns of the acquisition of PI. A determination as to reasonableness shall include consideration of the number of notices that an Entity must provide and the methods of communication available to the Entity.

**Personal Information Definition.** An individual's last name and the individual's first name or first initial, in combination with and linked to any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in a manner that renders the element unreadable:

- SSN;
- Driver's license number or state ID number;
- Financial account number, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual's financial account;
- DNA profile;
- Unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical representation.

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An element is publicly available if the Entity reasonably believes that it was lawfully made widely available through any media or lawfully made available to the general public from federal, state, or local government records or disclosures to the general public that are required to be made by federal, state, or local law.

**Notice Required.** The notice shall indicate that the Entity knows of the unauthorized acquisition of PI pertaining to the resident of WI who is the subject of the PI. Notice may be provided by one of the following methods:

- Mail;
- A method the Entity has previously employed to communicate with the subject of the PI.

**Substitute Notice Available.** If an Entity cannot with reasonable diligence determine the mailing address of the subject of the PI, and if the Entity has not previously communicated with the subject of the PI, the Entity shall provide notice by a method reasonably calculated to provide actual notice to the subject of the PI.

**Exception: Compliance with Other Laws.**

- **GLBA.** An Entity that is subject to, and in compliance with, the privacy and security requirements of 15 USC 6801 to 6827 (Gramm-Leach-Bliley Act, Title V), or a person that has a contractual obligation to such an Entity, if the Entity or person has in effect a policy concerning breaches of information security.
- **HIPAA Covered Entities.** A health plan, health care clearinghouse, or health care provider who transmits any health information in electronic form; if the Entity complies with the requirements of 45 CFR, part 164.

**Other key provisions:**

- **Delay for Law Enforcement.** A law enforcement agency may, in order to protect an investigation or homeland security, ask an Entity not to provide a required notice for any period of time. If an Entity receives such a request, the Entity may not provide notice of or publicize an unauthorized acquisition of PI, except as authorized by the law enforcement agency that made the request.
- **Notification to Consumer Reporting Agencies.** If, as the result

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	<p>of a single incident, an Entity is required to notify 1,000 or more individuals that PI pertaining to the individuals has been acquired, the Entity shall without unreasonable delay notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notices sent to the individuals.</p>
<p><b>WYOMING</b>  WIS. STAT. § 895.507  Effective July 1, 2007</p>	<p><b>Application.</b> An individual or commercial entity (collectively, "Entity") that conducts business in WY and that owns or licenses computerized data that includes PI about a resident of WY.</p> <p><b>Security Breach Definition.</b> Unauthorized acquisition of computerized data that materially compromises the security, confidentiality or integrity of PI maintained by an Entity and causes or is reasonably believed to cause loss or injury to a resident of WY.</p> <ul style="list-style-type: none"> <li>• Good faith acquisition of PI by an employee or agent of an Entity for the purposes of the Entity is not a breach of the security of the data system, provided that the PI is not used or subject to further unauthorized disclosure;</li> </ul> <p><b>Notification Obligation.</b> Any Entity to which the statute applies shall, when it becomes aware of a breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that PI has been or will be misused. If the investigation determines that the misuse of PI about a WY resident has occurred or is reasonably likely to occur, the Entity shall give notice as soon as possible to the affected WY resident.</p> <p><b>Third Party Data Notification.</b> An Entity that maintains computerized data that includes PI on behalf of another Entity shall disclose to the Entity for which the information is maintained any breach of the security of the system as soon as practicable following the determination that PI was, or is reasonably believed to have been, acquired by an unauthorized person. The Entity that maintains the data on behalf of another Entity and Entity on whose behalf the data is maintained may agree which Entity will provide any required notice, provided only a single notice for each breach of the security of the system shall be required. If agreement regarding notification cannot be reached, the Entity who has the direct business relationship with the resident of WY shall provide the required notice.</p> <p><b>Timing of Notification.</b> Notice shall be made in the most expedient time possible and without unreasonable delay, consistent with any</p>

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measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

**Personal Information Definition.** The first name or first initial and last name of a person in combination with one or more of the following data elements when either the name or the data elements are not redacted::

- SSN;
- Driver's license number or WY ID card number;
- Account number, credit card number or debit card number in combination with any security code, access code or password that would allow access to a financial account of the person;
- Tribal identification card; or
- Federal or state government issued ID card.

PI does not include information, regardless of its source, contained in any federal, state or local government records or in widely distributed media that are lawfully made available to the general public.

**Notice Required.** Notice shall include:

- A toll-free number: that the individual may use to contact the person collecting the data, or his agent; and from which the individual may learn the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

Notice may be provided by one of the following methods:

- Written notice;
- Electronic mail notice.

**Substitute Notice Available.** If the Entity demonstrates that the cost of providing notice would exceed \$10,000 for WY-based Entities, and \$250,000 for all other Entities operating but not based in Wyoming; that the affected class of subject persons to be notified exceeds 10,000 for WY-based Entities and 500,000 for all other businesses operating but not based in WY; or the person does not have sufficient contact information. Substitute notice shall consist of all of the following:

- Conspicuous posting of the notice on the Internet, the World Wide Web or a similar proprietary or common carrier electronic system site of the person collecting the data, if the

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	<p>person maintains a public Internet, the World Wide Web or a similar proprietary or common carrier electronic system site; and</p> <ul style="list-style-type: none"> <li>• Notification to major statewide media. The notice to media shall include a toll-free phone number where an individual can learn whether or not that individual's personal data is included in the security breach.</li> </ul> <p><b>Exception: Compliance with Other Laws.</b></p> <ul style="list-style-type: none"> <li>• Certain Financial Institutions. Any financial institution as defined in 15 U.S.C. 6809 or federal credit union as defined by 12 U.S.C. 1752 that maintains notification procedures subject to the requirements of 15 U.S.C. 6801(b)(3) and 12 C.F.R. Part 364 Appendix B or Part 748 Appendix B, is deemed to be in compliance with the statute if the financial institution notifies affected WY customers in compliance with the requirements of 15 U.S.C. 6801 through 6809 and 12 C.F.R. Part 364 Appendix B or Part 748 Appendix B.</li> </ul> <p><b>Other key provisions:</b></p> <ul style="list-style-type: none"> <li>• Delay for Law Enforcement. The notification required by the statute may be delayed if a law enforcement agency determines in writing that the notification may seriously impede a criminal investigation.</li> <li>• AG Enforcement. The attorney general may bring an action in law or equity to address any violation of this section and for other relief that may be appropriate to ensure proper compliance with this section, to recover damages, or both.</li> </ul>
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## SECURITY BREACH NOTICE LEGISLATION: EFFECTIVE DATES

Effective Date	State
July 1, 2003	California
March 31, 2005	Arkansas
May 5, 2005	Georgia
June 1, 2005	North Dakota
June 28, 2005	Delaware
July 1, 2005	Florida
July 1, 2005	Tennessee
July 24, 2005	Washington
September 1, 2005	Texas
December 1, 2005	North Carolina
December 8, 2005	New York
January 1, 2006	Connecticut
January 1, 2006	Louisiana
January 1, 2006	Minnesota
January 1, 2006	Nevada
January 1, 2006	New Jersey
January 31, 2006	Maine
February 17, 2006	Ohio
March 1, 2006	Montana
March 1, 2006	Rhode Island
March 31, 2006	Wisconsin
June 22, 2006	Pennsylvania

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June 27, 2006	Illinois
July 1, 2006	Idaho
July 1, 2006	Indiana
July 13, 2006	Nebraska
September 1, 2006	Colorado
December 31, 2006	Arizona
January 1, 2007	Hawaii
January 1, 2007	Kansas
January 1, 2007	New Hampshire
January 1, 2007	Utah
January 1, 2007	Vermont
June 29, 2007	Michigan
July 1, 2007	District of Columbia
July 1, 2007	Wyoming
October 1, 2007	Oregon
January 1, 2008	Maryland
February 3, 2008	Massachusetts
June 6, 2008	West Virginia
July 1, 2008	Iowa
July 1, 2008	Virginia
November 1, 2008	Oklahoma
July 1, 2009	South Carolina

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