

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Right to Know Data Transparency and Privacy Protection  
6 Act.

7 Section 5. Findings and purpose.

8 The General Assembly hereby finds and declares that the  
9 right to privacy is a personal and fundamental right protected  
10 by the United States Constitution. As such, all individuals  
11 have a right to privacy in information pertaining to them. This  
12 State recognizes the importance of providing consumers with  
13 transparency about how their personal information, especially  
14 information relating to their children, is shared by  
15 businesses. This transparency is crucial for Illinois citizens  
16 to protect themselves and their families from cyber-crimes and  
17 identity thieves. Furthermore, for free market forces to have a  
18 role in shaping the privacy practices and for "opt-in" and  
19 "opt-out" remedies to be effective, consumers must be more than  
20 vaguely informed that a business might share personal  
21 information with third parties. Consumers must be better  
22 informed about what kinds of personal information are shared  
23 with other businesses. With these specifics, consumers can

1 knowledgeably choose to opt-in, opt-out, or choose among  
2 businesses that disclose information to third parties on the  
3 basis of how protective the business is of consumers' privacy.

4 Businesses are now collecting personal information and  
5 sharing and selling it in ways not contemplated or properly  
6 covered by the current law. Some websites are installing  
7 tracking tools that record when consumers visit web pages, and  
8 sending very personal information, such as age, gender, race,  
9 income, health concerns, religion, and recent purchases to  
10 third party marketers and data brokers. Third party data broker  
11 companies are buying, selling, and trading personal  
12 information obtained from mobile phones, financial  
13 institutions, social media sites, and other online and brick  
14 and mortar companies. Some mobile applications are sharing  
15 personal information, such as location information, unique  
16 phone identification numbers, and age, gender, and other  
17 personal details with third party companies. As such, consumers  
18 need to know the ways that their personal information is being  
19 collected by companies and then shared or sold to third parties  
20 in order to properly protect their privacy, personal safety,  
21 and financial security.

22 Section 10. Definitions. As used in this Act:

23 "Categories of personal information" includes, but is not  
24 limited to, the following:

25 (a) Identity information including, but not limited

1 to, real name, alias, nickname, and user name.

2 (b) Address information, including, but not limited  
3 to, postal or e-mail.

4 (c) Telephone number.

5 (d) Account name.

6 (e) Social security number or other government-issued  
7 identification number, including, but not limited to,  
8 social security number, driver's license number,  
9 identification card number, and passport number.

10 (f) Birthdate or age.

11 (g) Physical characteristic information, including,  
12 but not limited to, height and weight.

13 (h) Sexual information, including, but not limited to,  
14 sexual orientation, sex, gender status, gender identity,  
15 and gender expression.

16 (i) Race or ethnicity.

17 (j) Religious affiliation or activity.

18 (k) Political affiliation or activity.

19 (l) Professional or employment-related information.

20 (m) Educational information.

21 (n) Medical information, including, but not limited  
22 to, medical conditions or drugs, therapies, mental health,  
23 or medical products or equipment used.

24 (o) Financial information, including, but not limited  
25 to, credit, debit, or account numbers, account balances,  
26 payment history, or information related to assets,

1 liabilities, or general creditworthiness.

2 (p) Commercial information, including, but not limited  
3 to, records of property, products or services provided,  
4 obtained, or considered, or other purchasing or consumer  
5 histories or tendencies.

6 (q) Location information.

7 (r) Internet or mobile activity information,  
8 including, but not limited to, Internet protocol addresses  
9 or information concerning the access or use of any Internet  
10 or mobile-based site or service.

11 (s) Content, including text, photographs, audio or  
12 video recordings, or other material generated by or  
13 provided by the customer.

14 (t) Any of the above categories of information as they  
15 pertain to the children of the customer.

16 "Customer" means an individual residing in Illinois who  
17 provides, either knowingly or unknowingly, personal  
18 information to a private entity, with or without an exchange of  
19 consideration, in the course of purchasing, viewing,  
20 accessing, renting, leasing, or otherwise using real or  
21 personal property, or any interest therein, or obtaining a  
22 product or service from the private entity, including  
23 advertising or any other content.

24 "Designated request address" means an e-mail address or  
25 toll-free telephone number whereby customers may request or  
26 obtain the information required to be provided under Section 15

1 of this Act.

2 "Disclose" means to disclose, release, transfer, share,  
3 disseminate, make available, or otherwise communicate orally,  
4 in writing, or by electronic or any other means to any third  
5 party. "Disclose" does not include the following:

6 (a) Disclosure of personal information by a private  
7 entity to a third party under a written contract  
8 authorizing the third party to utilize the personal  
9 information to perform services on behalf of the private  
10 entity, including maintaining or servicing accounts,  
11 providing customer service, processing or fulfilling  
12 orders and transactions, verifying customer information,  
13 processing payments, providing financing, or similar  
14 services, but only if (i) the contract prohibits the third  
15 party from using the personal information for any reason  
16 other than performing the specified service or services on  
17 behalf of the private entity and from disclosing any such  
18 personal information to additional third parties; and (ii)  
19 the private entity effectively enforces these  
20 prohibitions.

21 (b) Disclosure of personal information by a business to  
22 a third party based on a good-faith belief that disclosure  
23 is required to comply with applicable law, regulation,  
24 legal process, or court order.

25 (c) Disclosure of personal information by a private  
26 entity to a third party that is reasonably necessary to

1 address fraud, security, or technical issues; to protect  
2 the disclosing private entity's rights or property; or to  
3 protect customers or the public from illegal activities as  
4 required or permitted by law.

5 "Operator" means any person or entity that owns a website  
6 located on the Internet or an online service that collects and  
7 maintains personal information from a customer residing in  
8 Illinois who uses or visits the website or online service if  
9 the website or online service is operated for commercial  
10 purposes. "Operator" does not include businesses having 10 or  
11 fewer employees or any third party that operates, hosts, or  
12 manages, but does not own, a website or online service on the  
13 owner's behalf or by processing information on behalf of the  
14 owner.

15 "Personal information" means any information that  
16 identifies, relates to, describes, or is capable of being  
17 associated with, a particular individual, including, but not  
18 limited to, his or her name, signature, physical  
19 characteristics or description, address, telephone number,  
20 passport number, driver's license or State identification card  
21 number, insurance policy number, education, employment,  
22 employment history, bank account number, credit card number,  
23 debit card number, or any other financial information.  
24 "Personal information" also means any data or information  
25 pertaining to an individual's income, assets, liabilities,  
26 purchases, leases, or rentals of goods, services, or real

1 property, if that information is disclosed, or is intended to  
2 be disclosed, with any identifying information, such as the  
3 individual's name, address, telephone number, or social  
4 security number.

5 "Third party" or "third parties" means (i) a private entity  
6 that is a separate legal entity from the private entity that  
7 has disclosed personal information; (ii) a private entity that  
8 does not share common ownership or common corporate control  
9 with the private entity that has disclosed personal  
10 information; or (iii) a private entity that does not share a  
11 brand name or common branding with the private entity that has  
12 disclosed personal information such that the affiliate  
13 relationship is clear to the customer.

14 Section 15. Notification of information sharing practices.  
15 An operator of a commercial website or online service that  
16 collects personal information through the Internet about  
17 individual customers residing in Illinois who use or visit its  
18 commercial website or online service shall, in its customer  
19 agreement or incorporated addendum or in another conspicuous  
20 location on its website or online service platform where  
21 similar notices are customarily posted: (i) identify all  
22 categories of personal information that the operator collects  
23 through the website or online service about individual  
24 customers who use or visit its commercial website or online  
25 service; and (ii) provide a description of a customer's rights,

1 as required under Section 25 of this Act, accompanied by one or  
2 more designated request addresses.

3 Section 20. Disclosure of a customer's personal  
4 information to a third party.

5 (a) An operator that discloses a customer's personal  
6 information to a third party shall make the following  
7 information available to the customer free of charge:

8 (1) all categories of personal information that were  
9 disclosed; and

10 (2) the names of all third parties that received the  
11 customer's personal information.

12 (b) This Section applies only to personal information  
13 disclosed after the effective date of this Act.

14 Section 25. Information availability service.

15 (a) An operator required to comply with Section 20 shall  
16 make the required information available by providing a  
17 designated request address in its customer agreement or  
18 incorporated addendum or in another conspicuous location on its  
19 website or online service platform where similar notices are  
20 customarily posted, and, upon receipt of a request under this  
21 Section, shall provide the customer with the information  
22 required under Section 20 for all disclosures occurring in the  
23 prior 12 months.

24 (b) An operator that receives a request from a customer



1 under this Section at one of the designated addresses shall  
2 provide a response to the customer within 30 days.

3 (c) An operator shall not be required to respond to a  
4 request made by the same customer more than once in a given  
5 12-month period.

6 (d) Notwithstanding the provisions of this Section, a  
7 parent or legal guardian of a customer under the age of 18 may  
8 submit a request under this Section on behalf of that customer.  
9 An operator shall not be required to respond to a request made  
10 by the same parent or legal guardian on behalf of a customer  
11 under the age of 18 more than once within a given 12-month  
12 period.

13 Section 30. Violation. A violation of this Act constitutes  
14 a violation of the Consumer Fraud and Deceptive Business  
15 Practices Act. The Office of the Attorney General or the  
16 appropriate State's Attorney's Office shall have sole  
17 enforcement authority of the provisions of this Act and may  
18 enforce a violation of this Act as an unlawful practice under  
19 the Consumer Fraud and Deceptive Business Practices Act.  
20 Nothing in this Section shall prevent a person from seeking a  
21 right of action for a violation of the Biometric Information  
22 Privacy Act or otherwise seeking relief under the Code of Civil  
23 Procedure.

24 Section 35. Waivers; contracts. Any waiver of the

1 provisions of this Act shall be void and unenforceable. Any  
2 agreement that does not comply with the applicable provisions  
3 of this Act shall be void and unenforceable.

4 Section 40. Construction.

5 (a) Nothing in this Act shall be construed to conflict with  
6 the federal Health Insurance Portability and Accountability  
7 Act of 1996 and the rules promulgated under that Act.

8 (b) Nothing in this Act shall be deemed to apply in any  
9 manner to a financial institution or an affiliate of a  
10 financial institution that is subject to Title V of the federal  
11 Gramm-Leach-Bliley Act of 1999 and the rules promulgated under  
12 that Act.

13 (c) Nothing in this Act shall be construed to apply to any  
14 State agency, federal agency, unit of local government, or any  
15 contractor, subcontractor, or agent thereof, when working for  
16 that State agency, federal agency, or unit of local government.

17 (d) Nothing in this Act shall be construed to apply to any  
18 entity recognized as a tax-exempt organization under 501(c)(3)  
19 or 501(c)(4) of the Internal Revenue Code of 1986.

20 (e) Nothing in this Act shall be construed to apply to a  
21 public utility, an alternative retail electric supplier, or an  
22 alternative gas supplier, as those terms are defined in  
23 Sections 3-105, 16-102, and 19-105 of the Public Utilities Act.