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LRB094 07564 RXD 42056 a

1 AMENDMENT TO HOUSE BILL 1633

2 AMENDMENT NO. _____. Amend House Bill 1633 by replacing
3 everything after the enacting clause with the following;

4 "Section 1. Short title. This Act may be cited as the
5 Personal Information Protection Act.

6 Section 5. Definitions. In this Act:

7 "Data Collector" may include, but is not limited to,
8 government agencies, public and private universities,
9 privately and publicly held corporations, financial
10 institutions, retail operators, and any other entity that, for
11 any purpose, whether by automated collection or otherwise,
12 handles, collects, disseminates, or otherwise deals with
13 nonpublic personal information.

14 "Breach of the security of the system data" means
15 unauthorized acquisition of computerized data that compromises
16 the security, confidentiality, or integrity of personal
17 information maintained by the data collector. "Breach of the
18 security of the system data" does not include good faith
19 acquisition of personal information by an employee or agent of
20 the data collector for a legitimate purpose of the data
21 collector, provided that the personal information is not used
22 for a purpose unrelated to the data collector's business or
23 subject to further unauthorized disclosure.

24 "Breach of the security of non-computerized data" may

1 include, but is not limited to, unauthorized photocopying,
2 facsimiles, or other paper-based methods of transmitting
3 documents.

4 "Personal information" means an individual's first name or
5 first initial and last name in combination with any one or more
6 of the following data elements, when either the name or the
7 data elements are not encrypted or redacted:

8 (1) Social Security number.

9 (2) Driver's license number or State identification
10 card number.

11 (3) Account number or credit or debit card number, if
12 circumstances exist where the number could be used without
13 additional identifying information, access codes, or
14 passwords.

15 (4) Account passwords or personal identification
16 numbers or other access codes.

17 (5) Any item provided in paragraphs (1) through (4)
18 when not in connection with the individual's first name or
19 first initial and last name, if the information compromised
20 would be sufficient to perform or attempt to perform
21 identity theft against the person whose information was
22 compromised.

23 "Personal information" does not include publicly available
24 information that is lawfully made available to the general
25 public from federal, State, or local government records.

26 Section 10. Notice of Breach.

27 (a) Except as provided in subsection (b) of this Section,
28 any data collector that owns or uses personal information in
29 any form, whether computerized, paper, or otherwise, that
30 includes personal information concerning an Illinois resident
31 shall notify the resident that there has been a breach of the
32 security of the system data following discovery or notification
33 of the breach, without regard for whether the data has been

1 accessed by an unauthorized third party for legal or illegal
2 purposes. The disclosure notification shall be made in the most
3 expedient time possible and without unreasonable delay,
4 consistent with the legitimate needs of the law enforcement
5 agency, as provided in subsection (b) of this Section, or with
6 any measures necessary to determine the scope of the breach and
7 restore the reasonable integrity, security, and
8 confidentiality of the data system.

9 (b) The notification required by this Section may be
10 delayed if a law enforcement agency determines that the
11 notification may impede a criminal investigation. The
12 notification required by this Section shall be made after the
13 law enforcement agency determines that it will not compromise
14 the investigation.

15 (c) For purposes of this Section, notice to consumers may
16 be provided by one of the following methods:

17 (1) written notice;

18 (2) electronic notice, if the notice provided is
19 consistent with the provisions regarding electronic
20 records and signatures for notices legally required to be
21 in writing as set forth in Section 7001 of Title 15 of the
22 United States Code; or

23 (3) substitute notice, if the data collector
24 demonstrates that the cost of providing notice would exceed
25 \$250,000 or that the affected class of subject persons to
26 be notified exceeds 500,000, or the data collector does not
27 have sufficient contact information. Substitute notice
28 shall consist of all of the following: (i) e-mail notice if
29 the data collector has an email address for the subject
30 persons; (ii) conspicuous posting of the notice on the data
31 collector's web site page if the data collector maintains
32 one; and (iii) notification to major statewide media.

33 Section 15. Waiver. Any waiver of the provisions of this

1 Act is contrary to public policy and is void and unenforceable.

2 Section 20. Violation. A violation of this Act constitutes
3 an unlawful practice under the Consumer Fraud and Deceptive
4 Business Practices Act.

5 Section 900. The Consumer Fraud and Deceptive Business
6 Practices Act is amended by changing Section 2Z as follows:

7 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

8 Sec. 2Z. Violations of other Acts. Any person who knowingly
9 violates the Automotive Repair Act, the Home Repair and
10 Remodeling Act, the Dance Studio Act, the Physical Fitness
11 Services Act, the Hearing Instrument Consumer Protection Act,
12 the Illinois Union Label Act, the Job Referral and Job Listing
13 Services Consumer Protection Act, the Travel Promotion
14 Consumer Protection Act, the Credit Services Organizations
15 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
16 Services Consumer Protection Act, the Telephone Solicitations
17 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
18 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
19 Sales Act, the High Risk Home Loan Act, subsection (a) or (b)
20 of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b)
21 of Section 3-10 of the Cigarette Use Tax Act, the Electronic
22 Mail Act, paragraph (6) of subsection (k) of Section 6-305 of
23 the Illinois Vehicle Code, ~~or~~ the Automatic Contract Renewal
24 Act, or the Personal Information Protection Act commits an
25 unlawful practice within the meaning of this Act.

26 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
27 eff. 1-1-05.)".