

PROTECTION OF INFORMATION IN CONSUMER CREDIT DATABASES, 2006
Ut. SB 69

Enacted, March 20, 2006

Reporter

2006 Ut. ALS 343; 2006 Utah Laws 343; 2006 Ut. Ch. 343; 2006 Ut. SB 69

**UTAH ADVANCE LEGISLATIVE SERVICE > UTAH 56TH LEGISLATURE -- 2006 GENERAL SESSION >
Chapter 343 > SENATE BILL 69**

Notice

 **[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]**

Synopsis

AN ACT LONG TITLE

General Description:

This bill addresses the integrity of consumer credit databases.

Text

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-42-101 is enacted to read:

CHAPTER 42. CONSUMER CREDIT PROTECTION ACT

Part 1. General Provisions

[A> 13-42-101. <A] Title.

[A> THIS CHAPTER IS KNOWN AS THE "CONSUMER CREDIT PROTECTION ACT." <A]

Section 2. Section 13-42-102 is enacted to read:

[A> 13-42-102. <A] Definitions.

[A> AS USED IN THIS CHAPTER: <A]

[A> (1) (A) "BREACH OF SYSTEM SECURITY" MEANS AN UNAUTHORIZED ACQUISITION OF COMPUTERIZED DATA MAINTAINED BY A PERSON THAT COMPROMISES THE SECURITY, CONFIDENTIALITY, OR INTEGRITY OF PERSONAL INFORMATION. <A]

[A> (B) "BREACH OF SYSTEM SECURITY" DOES NOT INCLUDE THE ACQUISITION OF PERSONAL INFORMATION BY AN EMPLOYEE OR AGENT OF THE PERSON POSSESSING UNENCRYPTED

COMPUTERIZED DATA UNLESS THE PERSONAL INFORMATION IS USED FOR AN UNLAWFUL PURPOSE OR DISCLOSED IN AN UNAUTHORIZED MANNER. <A]

[A> (2) "CONSUMER" MEANS A NATURAL PERSON. <A]

[A> (3) (A) "PERSONAL INFORMATION" MEANS 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 DATE ELEMENT IS UNENCRYPTED OR NOT PROTECTED BY ANOTHER METHOD THAT RENDERES THE DATA UNREADABLE OR UNUSABLE: <A]

[A> (I) SOCIAL SECURITY NUMBER; <A]

[A> (II) (A) FINANCIAL ACCOUNT NUMBER, OR CREDIT OR DEBIT CARD NUMBER; AND <A]

[A> (B) ANY REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD THAT WOULD PERMIT ACCESS TO THE PERSON'S ACCOUNT; OR <A]

[A> (III) DRIVER LICENSE NUMBER OR STATE IDENTIFICATION CARD NUMBER. <A]

[A> (B) "PERSONAL INFORMATION" 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. <A]

[A> (4) "RECORD" INCLUDES MATERIALS MAINTAINED IN ANY FORM, INCLUDING PAPER AND ELECTRONIC. <A]

Section 3. Section 13-42-201 is enacted to read:

Part 2. Protection of Personal Information

[A> 13-42-201. <A] Protection of personal information.

[A> (1) ANY PERSON WHO CONDUCTS BUSINESS IN THE STATE AND MAINTAINS PERSONAL INFORMATION SHALL IMPLEMENT AND MAINTAIN REASONABLE PROCEDURES TO: <A]

[A> (A) PREVENT UNLAWFUL USE OR DISCLOSURE OF PERSONAL INFORMATION COLLECTED OR MAINTAINED IN THE REGULAR COURSE OF BUSINESS; AND <A]

[A> (B) DESTROY, OR ARRANGE FOR THE DESTRUCTION OF, RECORDS CONTAINING PERSONAL INFORMATION THAT ARE NOT TO BE RETAINED BY THE PERSON. <A]

[A> (2) THE DESTRUCTION OF RECORDS UNDER SUBSECTION (1)(B) SHALL BE BY: <A]

[A> (A) SHREDDING; <A]

[A> (B) ERASING; OR <A]

[A> (C) OTHERWISE MODIFYING THE PERSONAL INFORMATION TO MAKE THE INFORMATION INDECIPHERABLE. <A]

[A> (3) THIS SECTION DOES NOT APPLY TO A FINANCIAL INSTITUTION AS DEFINED BY [15 U.S.C. SECTION 6809](#). <A]

Section 4. Section 13-42-202 is enacted to read:

[A> 13-42-202. <A] Personal information -- Disclosure of system security breach.

[A> (1) (A) A PERSON WHO OWNS OR LICENSES COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION CONCERNING A UTAH RESIDENT SHALL, WHEN THE PERSON BECOMES AWARE OF A BREACH OF SYSTEM SECURITY, CONDUCT IN GOOD FAITH A REASONABLE AND PROMPT INVESTIGATION TO DETERMINE THE LIKELIHOOD THAT PERSONAL INFORMATION HAS BEEN OR WILL BE MISUSED FOR IDENTITY THEFT OR FRAUD PURPOSES. <A]

[A> (B) IF AN INVESTIGATION UNDER SUBSECTION (1)(A) REVEALS THAT THE MISUSE OF PERSONAL INFORMATION FOR IDENTITY THEFT OR FRAUD PURPOSES HAS OCCURRED, OR IS REASONABLY LIKELY TO OCCUR, THE PERSON SHALL PROVIDE NOTIFICATION TO EACH AFFECTED UTAH RESIDENT. <A]

[A> (2) A PERSON REQUIRED TO PROVIDE NOTIFICATION UNDER SUBSECTION (1) SHALL PROVIDE THE NOTIFICATION IN THE MOST EXPEDIENT TIME POSSIBLE WITHOUT UNREASONABLE DELAY: <A]

[A> (A) CONSIDERING LEGITIMATE INVESTIGATIVE NEEDS OF LAW ENFORCEMENT, AS PROVIDED IN SUBSECTION (4)(A); <A]

[A> (B) AFTER DETERMINING THE SCOPE OF THE BREACH OF SYSTEM SECURITY; AND <A]

[A> (C) AFTER RESTORING THE REASONABLE INTEGRITY OF THE SYSTEM. <A]

[A> (3) (A) A PERSON WHO MAINTAINS COMPUTERIZED DATA THAT INCLUDES PERSONAL INFORMATION THAT THE PERSON DOES NOT OWN OR LICENSE SHALL NOTIFY AND COOPERATE WITH THE OWNER OR LICENSEE OF THE INFORMATION OF ANY BREACH OF SYSTEM SECURITY IMMEDIATELY FOLLOWING THE PERSON'S DISCOVERY OF THE BREACH IF MISUSE OF THE PERSONAL INFORMATION OCCURS OR IS REASONABLY LIKELY TO OCCUR. <A]

[A> (B) COOPERATION UNDER SUBSECTION (3)(A) INCLUDES SHARING INFORMATION RELEVANT TO THE BREACH WITH THE OWNER OR LICENSEE OF THE INFORMATION. <A]

[A> (4) (A) NOTWITHSTANDING SUBSECTION (2), A PERSON MAY DELAY PROVIDING NOTIFICATION UNDER SUBSECTION (1) AT THE REQUEST OF A LAW ENFORCEMENT AGENCY THAT DETERMINES THAT NOTIFICATION MAY IMPEDE A CRIMINAL INVESTIGATION. <A]

[A> (B) A PERSON WHO DELAYS PROVIDING NOTIFICATION UNDER SUBSECTION (4)(A) SHALL PROVIDE NOTIFICATION IN GOOD FAITH WITHOUT UNREASONABLE DELAY IN THE MOST EXPEDIENT TIME POSSIBLE AFTER THE LAW ENFORCEMENT AGENCY INFORMS THE PERSON THAT NOTIFICATION WILL NO LONGER IMPEDE THE CRIMINAL INVESTIGATION. <A]

[A> (5) (A) A NOTIFICATION REQUIRED BY THIS SECTION MAY BE PROVIDED: <A]

[A> (I) IN WRITING BY FIRST-CLASS MAIL TO THE MOST RECENT ADDRESS THE PERSON HAS FOR THE RESIDENT; <A]

[A> (II) ELECTRONICALLY, IF THE PERSON'S PRIMARY METHOD OF COMMUNICATION WITH THE RESIDENT IS BY ELECTRONIC MEANS, OR IF PROVIDED IN ACCORDANCE WITH THE CONSUMER DISCLOSURE PROVISIONS OF [15 U.S.C. SECTION 7001](#); <A]

[A> (III) BY TELEPHONE, INCLUDING THROUGH THE USE OF AUTOMATIC DIALING TECHNOLOGY NOT PROHIBITED BY OTHER LAW; OR <A]

[A> (IV) BY PUBLISHING NOTICE OF THE BREACH OF SYSTEM SECURITY IN A NEWSPAPER OF GENERAL CIRCULATION. <A]

[A> (B) IF A PERSON MAINTAINS THE PERSON'S OWN NOTIFICATION PROCEDURES AS PART OF AN INFORMATION SECURITY POLICY FOR THE TREATMENT OF PERSONAL INFORMATION THE PERSON 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 PERSON NOTIFIES EACH AFFECTED UTAH RESIDENT IN ACCORDANCE WITH THE PERSON'S INFORMATION SECURITY POLICY IN THE EVENT OF A BREACH. <A]

[A> (C) A PERSON 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 PERSON NOTIFIES EACH AFFECTED UTAH RESIDENT IN ACCORDANCE WITH THE OTHER APPLICABLE LAW IN THE EVENT OF A BREACH. <A]

[A> (6) A WAIVER OF THIS SECTION IS CONTRARY TO PUBLIC POLICY AND IS VOID AND UNENFORCEABLE. <A]

Section 5. Section 13-42-301 is enacted to read:

Part 3. Enforcement

[A> 13-42-301. <A] Enforcement.

[A> (1) THE ATTORNEY GENERAL MAY ENFORCE THIS CHAPTER'S PROVISIONS. <A]

[A> (2) (A) NOTHING IN THIS CHAPTER CREATES A PRIVATE RIGHT OF ACTION. <A]

[A> (B) NOTHING IN THIS CHAPTER AFFECTS ANY PRIVATE RIGHT OF ACTION EXISTING UNDER OTHER LAW, INCLUDING CONTRACT OR TORT. <A]

[A> (3) A PERSON WHO VIOLATES THIS CHAPTER'S PROVISIONS IS SUBJECT TO A CIVIL FINE OF: <A]

[A> (A) NO GREATER THAN \$ 2,500 FOR A VIOLATION OR SERIES OF VIOLATIONS CONCERNING A SPECIFIC CONSUMER; AND <A]

[A> (B) NO GREATER THAN \$ 100,000 IN THE AGGREGATE FOR RELATED VIOLATIONS CONCERNING MORE THAN ONE CONSUMER. <A]

[A> (4) IN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTION (3), THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF TO PREVENT FUTURE VIOLATIONS OF THIS CHAPTER IN: <A]

[A> (A) THE DISTRICT COURT LOCATED IN SALT LAKE CITY; OR <A]

[A> (B) THE DISTRICT COURT FOR THE DISTRICT IN WHICH RESIDES A CONSUMER WHO IS AFFECTED BY THE VIOLATION. <A]

Section 6. Appropriation.

[A> (1) THERE IS APPROPRIATED FROM THE GENERAL FUND TO THE ATTORNEY GENERAL: <A]

[A> (A) AS AN ONGOING APPROPRIATION, SUBJECT TO FUTURE BUDGET CONSTRAINTS, \$ 89,400 FOR FISCAL YEAR 2006-07; AND <A]

[A> (B) \$ 23,000 FOR FISCAL YEAR 2006-07 ONLY. <A]

[A> (2) IT IS THE INTENT OF THE LEGISLATURE THAT: <A]

[A> (A) THE MONIES APPROPRIATED UNDER SUBSECTION (1)(A) BE USED TO FUND INVESTIGATORY ACTIVITIES THAT MAY LEAD TO AN ENFORCEMENT ACTION BY THE ATTORNEY GENERAL UNDER SECTION 13-42-301; AND <A]

[A> (B) THE MONIES APPROPRIATED UNDER SUBSECTION (1)(B) BE USED TO PURCHASE EQUIPMENT REQUIRED FOR INVESTIGATORY ACTIVITIES THAT MAY LEAD TO AN ENFORCEMENT ACTION BY THE ATTORNEY GENERAL UNDER SECTION 13-42-301 . <A]

Section 7. Effective date.

[A> THIS BILL TAKES EFFECT ON JANUARY 1, 2007. <A]

History

Approved by the Governor on March 20, 2006

Sponsor

Walker

UTAH ADVANCE LEGISLATIVE SERVICE
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