

## COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 230

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling  
2 and other trade practices, so as to provide legislative findings; to provide definitions; to  
3 require information brokers to give notice to consumers of certain security breaches; to  
4 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other  
9 trade practices, is amended by adding a new Article 34 to read as follows:

10 "ARTICLE 34

11 10-1-910.

12 The General Assembly finds and declares as follows:

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

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

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

1 (4) Implementation of technology security plans and security software as part of an  
2 information security policy may provide protection to consumers and the general public  
3 from identity thieves;

4 (5) Information brokers should clearly define the standards for authorized users of its  
5 data so that a breach by an unauthorized user is easily identifiable;

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

7 (7) Victims of identity theft must act quickly to minimize the damage; therefore,  
8 expeditious notification of unauthorized acquisition and possible misuse of a person's  
9 personal information is imperative.

10 10-1-911.

11 As used in this article, the term:

12 (1) 'Breach of the security of the system' means unauthorized acquisition of an  
13 individual's computerized data that compromises the security, confidentiality, or integrity  
14 of personal information of such individual maintained by an information broker. Good  
15 faith acquisition of personal information by an employee or agent of an information  
16 broker for the purposes of such information broker is not a breach of the security of the  
17 system, provided that the personal information is not used or subject to further  
18 unauthorized disclosure.

19 (2) 'Information broker' means any person or entity who, for monetary fees or dues,  
20 engages in whole or in part in the business of collecting, assembling, evaluating,  
21 compiling, reporting, transmitting, transferring, or communicating information  
22 concerning individuals for the primary purpose of furnishing personal information to  
23 nonaffiliated third parties, but does not include any governmental agency whose records  
24 are maintained primarily for traffic safety, law enforcement, or licensing purposes.

25 (3) 'Notice' means:

26 (A) Written notice;

27 (B) Electronic notice, if the notice provided is consistent with the provisions regarding  
28 electronic records and signatures set forth in Section 7001 of Title 15 of the United  
29 States Code; or

30 (C) Substitute notice, if the information broker demonstrates that the cost of providing  
31 notice would exceed \$250,000.00, that the affected class of individuals to be notified  
32 exceeds 500,000, or that the information broker does not have sufficient contact  
33 information to provide written or electronic notice to such individuals. Substitute  
34 notice shall consist of all of the following:

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

- 1 (ii) Conspicuous posting of the notice on the information broker's website page, if  
 2 the information broker maintains one; and  
 3 (iii) Notification to major state-wide media.

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

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

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

- 18 (A) Social security number;  
 19 (B) Driver's license number or state identification card number;  
 20 (C) Account number, credit card number, or debit card number, if circumstances exist  
 21 wherein such a number could be used without additional identifying information, access  
 22 codes, or passwords;  
 23 (D) Account passwords or personal identification numbers or other access codes; or  
 24 (E) Any of the items contained in subparagraphs (A) through (D) of this paragraph  
 25 when not in connection with the individual's first name or first initial and last name, if  
 26 the information compromised would be sufficient to perform or attempt to perform  
 27 identity theft against the person whose information was compromised.

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

31 10-1-912.

32 (a) Any information broker that maintains computerized data that includes personal  
 33 information of individuals shall give notice of any breach of the security of the system  
 34 following discovery or notification of the breach in the security of the data to any resident  
 35 of this state whose unencrypted personal information was, or is reasonably believed to have  
 36 been, acquired by an unauthorized person. The notice shall be made in the most expedient

1 time possible and without unreasonable delay, consistent with the legitimate needs of law  
2 enforcement, as provided in subsection (c) of this Code section, or with any measures  
3 necessary to determine the scope of the breach and restore the reasonable integrity,  
4 security, and confidentiality of the data system.

5 (b) Any person or business that maintains computerized data on behalf of an information  
6 broker that includes personal information of individuals that the person or business does  
7 not own shall notify the information broker of any breach of the security of the data  
8 immediately following discovery, if the personal information was, or is reasonably believed  
9 to have been, acquired by an unauthorized person.

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

14 (d) In the event that an information broker discovers circumstances requiring notification  
15 pursuant to this Code section of more than 10,000 residents of this state at one time, the  
16 information broker shall also notify, without unreasonable delay, all consumer reporting  
17 agencies that compile and maintain files on consumers on a nation-wide basis, as defined  
18 by 15 U.S.C. Section 1681a, of the timing, distribution, and content of the notices."

19 **SECTION 2.**

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

22 **SECTION 3.**

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